CALIFORNIA. CONSTITUTION

THE ORIGINAL CONSTITUTION OF THE STATE OF CALIFORNIA

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CONSTITUTION

of the

STATE of CALIFORNIA.

We the People of California,
grateful to Almighty God for our freedom, in order to secure its blessings, do establish this Constitution.

Article I.

Declaration of Rights.

Section 1.

All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

Sec. 2.

All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same, whenever the public good may require it.

Sec. 3.

The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties, in all civil cases, in the manner to be prescribed by law.

Sec. 4.

The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured, shall not be so construed, as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Sec. 5.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sec. 6.

Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

". . . People ought to enjoy Peace and Tranquillity, that they may be in a condition to attend the Worship of God, and the good Works prescribed by the Christian Religion, and not to be diverted from the sacraments by being condemned to continual Labor. Which state of Peace and Rest can not subsist without preserving to every Man his Property, and guarding him from all assaults of Injury and Injustice. The Governors of Commonwealths are bound by the Law of God to remove all Obstructions to so necessary a Peace . . . This good order is necessary in every Christian Republic, but there especially where the Christian Faith has been but lately introduced."

BARTOLOMÉ de las CASAS
1552

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Executive Department

State of California

P R O C L A M A T I O N

WHEREAS On November 13 we observe California Citizenship Day--the anniversary of the ratification of the first Constitution of the State of California; and

WHEREAS A primary concern of all Californians, now as in the past, is the respect for, maintenance of, and perpetuation of law and order in our society; and

WHEREAS The spirit and letter of the Constitution of the State of California, together with the Constitution of the United States, has formed the basis of law and order in a society of free and democratic people; and

WHEREAS The anniversary of our Constitution is an appropriate time for the reaffirmation of and rededication to, the high ideals, rights and traditions of citizenship, both in California and the nation;

NOW, THEREFORE, I, EDMUND G. BROWN, GOVERNOR OF THE STATE OF CALIFORNIA, proclaim November 13 as CALIFORNIA CITIZENSHIP DAY.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this ninth day of November, One Thousand Nine Hundred Sixty Five.

Edmund G. Brown
Governor

ATTEST: Frank M. Jordan
Secretary of State

By Walter E. Shutler
Assistant Secretary of State

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Presented to the

Governor of the State of California

THE HONORABLE EDMUND G. BROWN

by

those whose efforts and cooperation made possible this publication
of the first Constitution of the State of California.

_____	*Secretary of State*
_____	*Superintendent of Public Instruction*
_____	*State Archivist*
_____	*Historian State Archives*
_____	*Historian Emeritus, State of California*
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_____	*California State Archives*
_____	*Administrative Consultant, State Department of Education*

OCTOBER 13, 1965
116th Anniversary of the
Signing of the Constitution
of California

The Capitol
Sacramento

Robert Baylor Semple
President of the Constitutional Convention.

William Hartnell
an hispanicized Englishman who served as official translator for the Convention.

Henry Wager Halleck
Secretary of State to General Riley as well as Secretary of the Convention.

Mariano Guadalupe Vallejo

a native Californian born under the Spanish Flag, Commandante General during the Mexican regime and an American citizen after 1848. He was an important personality at the Constitutional Convention.

Monterey

Capital of California when the Convention met in 1849.

Pablo de la Guerra

an active and influential spokesman for the native Californians at the Constitutional Convention in 1849.

Brigadier General Bennett Riley

Acting Governor of California who called together the Delegates to the Convention in Monterey.

Monterey

from a sketch by Bayard Taylor, who attended the Convention.

The Original Constitution of the State of California 1849

the
Engrossed Copy
with the
Official Spanish Translation

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Foreword

In 1969, San Diego will celebrate its 200th birthday - anniversary. The event will no doubt spark a series of historical celebrations in California as community after community in succeeding years reexamines its past for a better understanding of its origins and of its early growth. The pageant of California history, of sturdy Missionary fathers, of daring Spanish soldiers and seamen whose adventures on land and sea are ever remarkable for their valor, of the ultimate arrival of the Yankee and the conjunction of cultures in California in the 1840's . . . all this, romantic and epic periods of California history, will dominate the subject matter of numerous public addresses.

Here is grist for school books, and for schoolboys of all ages. It is fitting, therefore, that a publication of this quality should appear at this time. California schools are mandated by law to teach California History. A more recent mandate by the Legislature has added modern languages to the state curriculum. Two years ago a state-wide survey revealed that 97% of the State's schools teaching languages in grades 6 through 8 will be teaching Spanish: hence another important use of this document. The Bureau of National Defense Education Act Administration has not only performed a "first" by extracting from the State Archives for publication original English and Spanish versions of the first Constitution of California, but it has thereby obeyed the dictates of its own existence: the promotion of education in depth by making available special materials in the areas of history, civics, and geography, as well, in this case, the Spanish language.

The Prologue, "The Confluence of Cultures", contains a theme that is particularly appropriate if we consider that today there are over a hundred times more persons of Hispanic extraction living in California than there were in 1849. This "minority group" in California has never lost contact with its past, partly because of the constant immigration from Mexico over the years, but also because the "new" Californians themselves have, like the men at Monterey in 1849, respected and welcomed the contributions of those who preceded them.

These facsimiles of original documents in the State archives are an example of the renewed interest educators are demonstrating in the promotion of better understanding of what it means to be a Californian. Many teachers who use this booklet will have been born and raised in other states of the Union. This document should be of especial aid to them. Spanish teachers in the junior high and high schools should find here a special tool for instructional uses. In all cases it is hoped that the material itself and the references cited will stimulate the teacher to further research in this most prolific area.

Credit is due to numerous individuals for the publication of this document: to Secretary of State Frank M. Jordan, for his special cooperation and that of his aides; California State Archivist Paul J. O'Brien, Dr. William N. Davis, Jr., Historian, State Archives, and Frank Kono; to Mrs. Julia Yelvington, a member of the California Heritage Preservation Commission, who is actively promoting a wider use of the treasures of the State Archives; to Dr. V. Aubrey Neasham, who read Dr. Klotz's introductory manuscript; to the Bureau of National Defense Education Act Administration and Dr. Klotz for promoting and presenting this material; to Allan R. Ottley, Supervising Librarian, California Section, California State Library; and, not least, Dr. J. N. Bowman, for many years Historian for the State Archives, and the discoverer of the original English engrossed copy of the Constitution.

The children of California will be the better for the efforts of all these people.

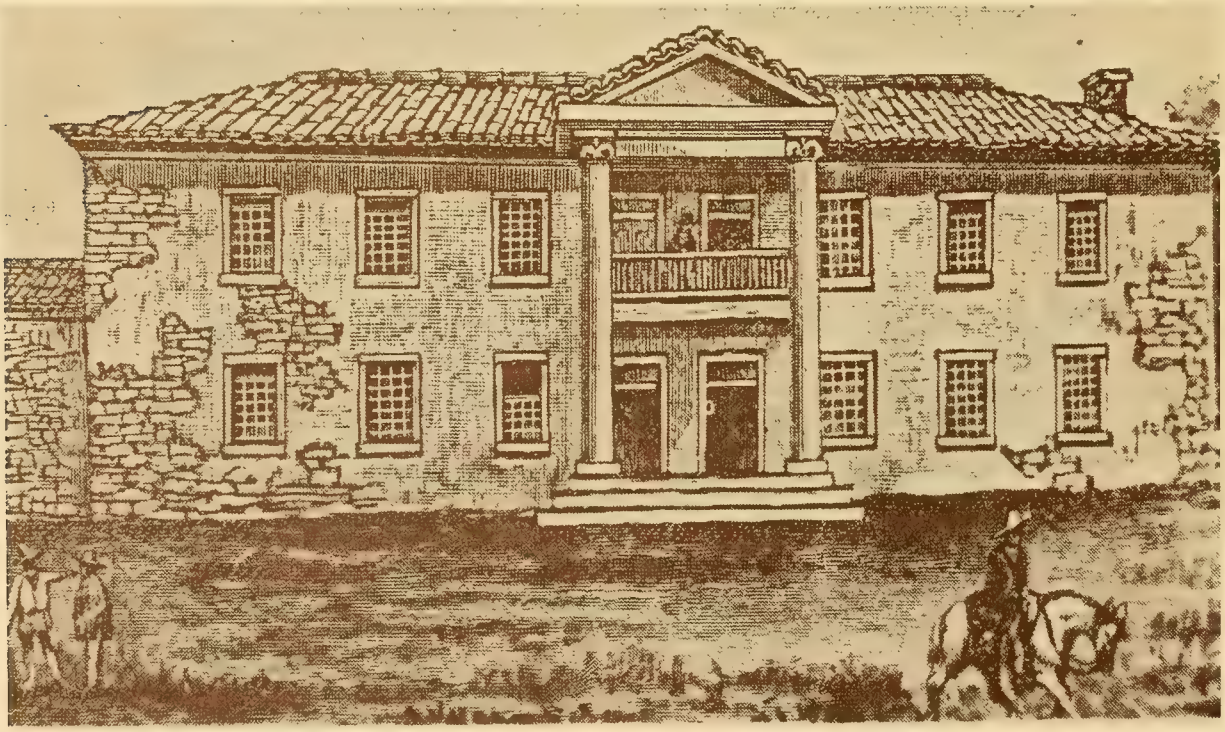
Max Rafferty

Walter Colton

Chaplain of the U.S.S. Congress, who was appointed Alcalde of Monterey in 1846.

Colton Hall

Site of the California Constitutional Convention of 1849. It was originally built as a school by Walter Colton.



The Confluence of Cultures

by

EDWIN F. KLOTZ

On the south wall of the large Reference Room of the State Library in Sacramento is a magnificent mural by Maynard Dixon which depicts the confluence, in California, of two of history's greatest migrations; Spanish conquistadors, missionary fathers and colonizers from the South, and the Puritan fathers, trappers and explorers from the north. The scene portrays both groups moving forward, hands stretched out as if to grasp three golden and brilliantly illuminated books of knowledge, which glow like the Holy Trinity over the entrance to the Reference Room.

Certainly the symbolism of muralist Dixon has a meaning for twentieth century Americans. Whether manifestly destined by man, or whether planned by the Almighty, it was here in California in the 1840's that the heirs of Cortez and Myles Standish met and deliberated and agreed upon an instrument of government which harmonized the traditions and the ambitions of two of history's most venturesome people: the Spanish and the English. Nor need we be surprised at their consummate success. The founding fathers at Monterey in 1849, while representing two varied cultures within the context of Western Civilization, nevertheless shared fundamental conceptions of law and justice, of right and wrong. What they had to resolve were practical questions of political structure, not philosophical or religious questions of the nature, or "use", of man as is often the case in our twentieth century world.

It is important to note, for example, that when General Bennett Riley, the Military Commander of California, issued his Proclamation "recommending formation of a State Constitution, or a plan of a Territorial Government" on June 3, 1849, he reminded the newcomers that Americans had inherited an existing structure of Government of which he, in his capacity as civil governor, was merely the temporary head: A Governor, a Secretary of State, a Legislature, a Superior Court, a prefect and sub-prefect for each District, a judge of the first instance for each district, alcaldes, local justices of the peace, and town councils. "The powers and functions of all these officers are fully defined in the laws of this country", he remarks, "and are almost identical with those of the corresponding officers in the Atlantic and Western States".[1]

During the Mexican American War (1846-48) martial law substituted for this structure. But immediately following the Peace Treaty of Guadalupe-Hidalgo, Riley's predecessor, Colonel Robert Mason, made appointments to many of these posts and ordered the officials to administer the Mexican laws of the land wherever they were not inconsistent with American law—as for instance when Mason denied a priest special privilege in a civil case, arguing that when a member of a religious order enters into a secular bargain, he is required, like everyone else, to comply with the secular law.

Order is the first task of any government, a fact of which twentieth century Americans are becoming more keenly aware. Without order there can be no society. This was soon evident to Californians of both heritages in 1849.

The discovery of gold had accelerated the influx of migrants to California to the degree that it resembled a human avalanche. Even the troops that once guarded the peace rushed off to the mines. Towns sprouted up overnight. "Within the past 6 months," said delegate Vermuele from Stockton during the debates on the Constitution at Monterey, "the population of California has augmented by tens of thousands". Some communities attempted to organize councils and govern themselves without legal authorization. Lawlessness was everywhere common. "Our object is to give order to chaos", declared Robert Semple, on becoming the Convention's president.

San Francisco, when it learned that Congress had failed to provide a territorial government for California, resolved to declare its "independence" from the "tyrannical" military Government. The situation became desperate. The time had arrived for positive action to protect life and property. It was then that Governor Riley called for the election of delegates from 10 defined districts to meet in Monterey and form a legitimate State or territorial government.

[1] "Proclamation of the Governor", in *Report of the Debates in the Convention of California on the Formation of the State Constitution*. J. Ross Browne, Washington, 1850, pp 3-4.

Certainly in the annals of history, few assemblies of men have convened who were as varied in background as the 48 delegates to the Constitutional Convention in Monterey in 1849. Only fifteen of the 48 participants had lived in California more than three years. As they described themselves in the "Address to the People of California", upon finishing their work: "Although born in different climes, coming from different states, imbued with local feelings, and educated with predilections for peculiar institutions, laws and customs, the delegates assembled in Convention, *as Californians*, and carried on their deliberations in a spirit of amity, compromise, and mutual concession for the public weal".[2]

Only eight of the forty-eight delegates had Spanish surnames. The native Californians were a decided minority. And yet how that minority managed to influence the course of events! Upon appeal of the suave José Antonio Carrillo of Los Angeles, it was early decided to have a running translation of the essentials of the oral debates so that the Spanish speaking delegates could make valid voice votes. William Hartnell, the English merchant who arrived in Monterey in 1822, who had married a de la Guerra daughter (by whom he had 18 children!) and who had become thoroughly hispanicized, was elected official translator for the Convention. All resolutions and articles were translated by Hartnell before being voted upon.

Indeed, the amity and accord between the "conquered" and "conquerors" at Monterey in 1849 were such that not only was the final document issued simultaneously in Spanish as well as English, but Section 21, Article XI, of the Constitution decreed that all future laws be translated and recorded in Spanish, and the first Legislature created the official position of State Translator. Thus for 30 years California could be said to have been a bi-lingual State until this condition was changed with the Constitution of 1879.

To be sure, the Anglo-Saxon majority dominated the proceedings of the Convention. The models for the first California Constitution were the recent constitutions of other states, especially of Iowa, copies of which were put in the hands of the delegates by William M. Gwin of San Francisco. Yet when the native Californians did express themselves their views were heeded. Some sections of the Constitution will demonstrate this.

Section 14, Article XI, proposed that real and personal property owned by a wife before her marriage, remain in her name after marriage, as well as any other real or personal property acquired after her marriage. The adoption of this section followed a lengthy discussion of the merits of the English common law as opposed to the prevailing Mexican civil law. Secretary of State, Henry W. Halleck, delegate from Monterey (who years later became Chief of Staff to President Lincoln during the Civil War), good-naturedly expressed the conversion of the delegates to the Mexican law when he said, "I am not wedded either to the common law or the civil law, nor as yet, to a woman; but having hopes that some time or other I may be wedded, and wishing to avoid the fate of my friend from San Francisco, (Mr. Lippitt), I shall advocate this section in the Constitution, and I would call upon all the bachelors in this Convention to vote for it. I do not think we can offer a greater inducement for women of fortune to come to California. It is the very best provision to get us wives that we can introduce into the Constitution".[3]

Section 26 of Article IV boldly restricted the powers of the Legislature by declaring "No divorce shall be granted by the Legislature". Yet, surprisingly, the following Section 27, Article IV, forbade to the new Californians the popuplar Latin pastime of a lottery.

Hovering over the entire proceedings of the Convention and influencing several articles, was the subject of slavery, and its accompanying mania; the race question. The delegates very early forbade slavery and involuntary servitude in Section 18 of the Declaration of Rights. But what about slave owners who had already brought slaves to work in the mines? Should they be forced to leave California? And what about free negroes who reach California? Were they to have the rights of suffrage?

The forces of reason suspended action on the first question, since Section 18 was considered sufficient to cope with it. A future legislature could take care of the details.

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[2]See page 104.
[3]Browne, Report of Debates, Ibid., p. 259.

But when discussion centered on the proposed article describing the rights of suffrage it included a phrase which prohibited suffrage to "Indians Africans and descendants of Africans". José de la Guerra, Hartnell's brother-in-law, rose to defend the rights of Indians. Under Mexican law, he declared, any property-owning Indian enjoyed the rights of suffrage. He called the Indians a "proud and gifted race, capable of forming a government for themselves . . . They were intelligent and capable of receiving instructions, and it was the duty of the citizens to endeavor to elevate them and better their condition in very way, instead of seeking to sink them still lower".[4]

He reiterated that Mexican law enfranchised only the property owner and not the mass of unpropertied or dependent Indians. The delegates accordingly amended Section 1, Article II, by adding a provision that the Legislature be empowered to admit Indians and their descendants to the right of suffrage providing they meet the requirements.

The question of deciding California boundaries, and its related problems, also brought participation by native Californians. Should the new State of California include all that territory ceded to the United States as a result of the Treaty of Guadalupe Hidalgo? (This territory included all of the present states of California, Nevada, and Utah, most of Arizona, and part of New Mexico, Colorado and Wyoming). What effect would this have on the Congress when petitioning admission to the Union as a Free State? How were the thirty to forty thousand Mormons at Salt Lake to be included when they had no representation at the Convention?

These questions very early started heated discussions and became issues which challenged the very continuance of the Convention. For instance, on September 5th it was questioned whether the delegates were assembled to establish a constitution for a state government, or a charter to petition Washington for a territorial government. José Antonio Carrillo informed his colleagues that he had been sent to Monterey to form a territorial government, and that if the majority wished a state government, then the State should be divided at the line running east and west from San Luis Obispo, that all north of that line form a state government and all south of that form a territorial government.[5] A month later, however, Carrillo had changed his mind. With Miguel de Pedrorena from San Diego, he declared for a state government. But now the issue was over boundaries, and William Gwin of San Francisco had hinted that the "southerners" below the 36° 30′ line (the line of the Missouri Compromise of 1820) may well favor a territorial government in order to protect the institution of slavery.

Carrillo, thinking that Gwin referred to Mexicans below the 36° 30′ longitude vigorously challenged such an attitude as "entirely false". The native Californians, he made clear, "have equally as much desire as any portion of the people of California to avoid the curse of slavery".[6]

The question of including the Salt Lake Mormon population was dramatically brought to a head when L. W. Hastings of Sacramento proposed that the Mormons be entitled to thirty representatives in the Assembly and 15 senators. The resistance of the majority to this plan, as recorded in the *Debates*, was obviously one reason for the drawing of California's boundaries essentially as they are known to every schoolboy today. But the particular question was raised in connection with the apportionment of legislative seats, an issue which has periodically confronted the state government since that time, and which continues to be one of the hottest political issues of our day.

Should both state houses be apportioned on the basis of population? No, declared Rodman M. Price of San Francisco. "There is one principle incorporated here which I rather object to, and that is the representation in both Houses being in accordance with numbers. In the State from which I came, and in most of the States of the Union, one branch — the upper branch — of the Legislature is represented equally by districts or counties, without regard to numbers. In the Congress of the United States the same principle is observed, by the representation in the Senate. This has always been considered a very wholesome restraint upon majorities, in protecting the rights and interests of minorities".[7]

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[4]Browne, *Ibid.*, p. 305.
[5]Browne, *Ibid.*, p. 22.
[6]Browne, *Ibid.*, p. 446.
[7]*Ibid.*, p. 409.

But, argued Charles T. Botts of Monterey, Mr. Price is mistaken in his belief that this federal principle should apply to state houses: "In the one case it is an imperfect government consisting of limited powers delegated to it by a Confederacy of States: in the other, it is a perfect government, originating directly from the people. Those who, like my friend, do not look at this fact are misled, and endeavor to introduce the principle when it does not belong".[8]

Even the delegates from San Diego, Henry Hill and Pedrorena, pleading for a senator of their own, were denied their appeal and were forced to share two senators as part of a single district which included the more populous Los Angeles!

As one reads the *Debates* carefully and studies the character of the participants, it is evident that the most serious differences between members of the Convention were differences which arose between the "new" Californians, and not between the "new" and the native Californians.

Indeed, men of Christian sensitivity like the Reverend Walter Colton, a navy chaplain whom Colonel Mason had appointed Alcalde in Monterey and who had erected the school building in which the Constitutional Convention was held, were completely won over by the gentle and honest ways of the native Californian. His *California Diary* expresses his love and admiration for them. "Though a quasi war exists", he wrote on July 28, 1846, "all the amenities and courtesies of life are preserved — your person, life and liberty are as sacred at the hearth of the Californian, as they would be at your own fireside . . . He may fight you in the field, but in his family, you may dance with his daughters, and he will himself wake the waltzing string".[9]

The Reverend Colton was imbued with the Puritan tradition of Roger Williams, and as he watched the growing lawlessness march across the land, he kept contrasting the mores of the native Californians with those of his own aggressive countrymen, lamenting: "No Californian grinds the face of the poor, or refuses an emigrant a participation in his lands. I have seen them dispose of miles [of land] for a consideration less than would be required by Americans for as many acres. You are shut up to the shrewdness and sharpness of the Yankee on the one hand, and the liberality of the Californian on the other. Your choice lies between the two, and I have no hesitation in saying, give me the Californian".[10]

Nevertheless, he might have pondered that not too many centuries earlier the same sort of judgment was made by missionary fathers who accompanied the goldseekers in the trains of Cortéz and Pizarro. And what rescued both migrations from the descent into savagery was the fact that "gente de razón", people of good judgment, ultimately saved the day. For Spanish colonialism it was the reigning monarchs who promulgated Laws of the Indies to protect the Indians. In California in 1849, it was the inborn Christian spirit common to both cultures which united to assuage the passions and make room for reason and justice. Colton's prophecies of this theme merit recitation for this generation:

"With the Christian community California has higher claims than those which glitter in her mines. The moral elements which now drift over her streams and treasured rocks will ere long settle down into abiding forms. Shall these permanent shapes, into which society is to be cast, take their plastic features from the impress of blind accident and skeptical apathy, or the moulding hand of religion? These primal forms must remain and wear for ages the traces of their deformity or beauty, their guilty insignificance or moral grandeur. Through them circulates your own lifeblood; in them is bound up the hopes of an empire. Not only the destiny of California is suspended on this issue, but the fate of all the republics which cheer the shores of the Pacific. The same treason to religion which wrecks the institutions of this country, will sap the foundations of a thousand other glorified shrines. It is for you, Christian brethren, to prevent such a disaster; it is for you to pour into California an unremitted tide of holy light. The Bible must throw its sacred radiance around every hearth, over every stream, through every mountain glen. The voice of the heralds of heavenly love must be echoed from every cliff and chasm and forest sanctuary. On you devolves this mission of Christian fidelity. It is for your faith and philanthropy to say

[8]Browne, *Ibid.*, p. 411.
[9]Colton, Walter, *The California Diary*, Biobooks, Oakland, California, 1948, p. 3.
[10]Colton, *Ibid.*, p. 199.

what California shall be when her swelling population shall burst the bounds of her domain. You can write her hopes in ashes, or stars that shall never set. Every school-book and Bible you throw among her hills will be a source of penetrating and pervading light, when the torch of the caverned miner has gone out".[11]

Proof that the conventionists of 1849 shared these views is evident not only by the spirit which prevailed during the debates, but by the inclusion of Section 4 of the Declaration of Rights which not merely guaranteed "the free exercise and enjoyment of religious profession and worship", but which also forbade that liberty of conscience "to be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of this state", a title which has remained in the Constitution to the present day.

Thus while their contemporaries were trudging the slopes of the Sierra collecting gold nuggets from among the rocks, the men at Monterey shunned the temporary glory of wealth to emblazon their names on the rolls of history. They were serious men, "young and energetic men", whose average age was 36 and a half years.[12] Many of them were trained in the law. Except for the native Californians, most of them were strangers to each other. Yet they demonstrated that when principles are held in common, mundane affairs can be settled equitably. Thus from the day a quorum was achieved, wrote the Reverend S. H. Willey years later, each session "was opened with prayer to Almighty God for his blessing on the body, on their work, and on the country. The sessions were so opened each morning until the final adjournment of the body".[13] The Reverend Willey shared this privilege with the Padre Antonio Ramirez of Monterey, one officiating one day, the other the next.

Walter Colton sensed the commonness of the faith in which all believed even if it was a faith represented by different churches. This faith they proudly declared in the *Preamble* to the Constitution. For here is a declaration representing the confluence of two cultures of Western Civilization. The *Preamble* incorporated the philosophy that individual liberties are traced to a dependency upon God and as such could be suspended in proportion to the degree that Faith subsides.

We live yet today under this protective shield because the ideas of the men of 1849 were again stated in the *Preamble* to the later Constitution of 1879. Two words, "and perpetuate", were added. Protestant and Catholic alike made bold to proclaim to all the world:

> *"We, the People of the State of California,*
> *grateful to Almighty God for our freedom,*
> *in order to secure and perpetuate its*
> *blessings, do establish this Constitution".*

[11]Colton, Walter, *The California Diary*, p. 222.
[12]Bowman, J. N., "The Original Constitution of California of 1849", California *Historical Society Quarterly*, Volume XXVIII. Number 3, p. 196.
[13]Willey, S. H., "The California Constitutional Convention in 1849", reprinted in *Themis*, Nov. 11, 1893, California State Library, Sacramento.

Proclama
al
Pueblo de California.

Los Delegados del Pueblo, reunidos en convencion han formado una constitucion que se os somete ahora para vuestra ratificacion. El tiempo y modo de votar sobre esta constitucion y de celebrar la primera eleccion general, están claramente esplicados en el Apéndice; todo el asunto pues se deja á vuestra despreocupada y deliberada consideracion.

El Prefecto (ó el que desempeñe las funciones de su empleo) de cada distrito, designará los lugares en donde se deba concurrir para votar, y dará el debido aviso para la eleccion, en conformidad con las prevenciones de la constitucion y del apéndice.

Se desea ahora que el Pueblo establezca un gobierno para sí mesmo, y nombre los empleados que necesite para hacer y ejecutar las leyes. El Egecutivo actual desea sincera y fervorosamente que vuestra eleccion sea acertada y que el gobierno que vais á establecer asegure la felicidad y bien estar permanente del nuevo Estado, y si llegare á ratificarse la constitucion, tendrá mucho gusto en trasmitir sus facultades al individuo que el pueblo elija para su sucesor.

Dado en Monterrey, California á los doce dias del mes de Octubre de 1849.

(firmado) B. Riley
Gen.l de Brig. del Eger.to de los E. U.
y Gobernador de California.

De Oficio
(firmado) H. W. Halleck
Capn. y Secrio. de Estado

Constitucion
del
Estado de California

Nosotros el Pueblo de California gratos al Todopoderoso por el goce de nuestra libertad, y á fin de asegurar sus beneficios, establecemos esta Constitucion.

Articulo I.

Declaracion de Derechos.

Sec. 1. Todos los hombres son por naturaleza libres é independientes y tienen ciertos derechos inajenables, entre los cuales son los de gozar y defender la vida y la libertad, de adquirir, poseer y proteger sus propiedades, y de procurar y obtener su seguridad y felicidad.

Sec. 2. Todo poder político es inherente en el pueblo. El gobierno se instituye para la proteccion, seguridad y beneficio del pueblo; y este tiene el derecho de cambiarlo ó reformarlo, siempre que el bien público lo requiera.

Sec. 3. El derecho de juicio por medio de jurado será asegurado á todos y quedará inviolable para siempre; mas el juicio por jurado podrá recusarse por las partes en todas las causas civiles de la manera que prescriba la ley.

Sec. 4. El libre ejercicio y goce de la profesion y culto religiosos, sin distincion ni preferencia, se concederán para siempre en este estado; y á nadie se le tendrá por incompetente para servir de testigo, en consecuencia de sus opiniones sobre materias de creencia religiosa; mas la libertad de conciencia que aquí se asegura, no se ha de interpretar de tal modo que sirva de escusa para cometer actos licenciosos ó para justificar aquellos que sean incompatibles con la paz ó la seguridad del estado.

Sec. 5. No se suspenderá el precepto de habeas corpus sino cuando la seguridad pública así lo requiera en casos de rebelion ó invasion.

Sec. 6ª. No se exijirán fianzas excesivas, ni se impondrán multas exhorbitantes, ni tampoco se aplicarán castigos crueles ó inusitados, ni serán detenidos los testigos mas del tiempo razonable.

Sec. 7ª. Se admitirá (ante todo) toda persona que presente fiadores abonados, excepto por ofensas capitales, cuando la prueba sea evidente ó la presuncion grande.

Sec. 8. Nadie será compelido á responder por ningun crimen capital ó de otra manera infame (escepto en caso de acusacion de empleados públicos [impeachment] y en los de la milicia cuando se halle en actual servicio, y de las fuerzas de mar y tierra en tiempo de guerra ó las que pueda el estado mantener con consentimiento del Congreso en tiempo de paz, y en los casos de rateria [petty larceny] sujeto al arreglo de la Lejislatura) sin previa presentacion ó acusacion ante un gran jurado; y en cualquiera juicio ante cualquiera tribunal, se le permitirá á la parte acusada comparecer á defenderse en persona y con abogado, como en las acciones civiles. Ningun individuo será perseguido dos veces por una misma ofensa; ni se obligará á servir de testigo contra sí mismo en ningun caso criminal, ni se le privará de la vida, libertad ó propiedad sin el correspondiente proceso de ley, y las propiedades particulares no se tomarán para el uso público sin una compensacion justa.

Sec. 9. Todo ciudadano tendrá la libertad de decir, escribir y publicar sus sentimientos sobre cualesquiera asuntos, siendo responsable del abuso de este derecho, y

no se hará ninguna ley para restringir ó coartar la libertad del habla ó de la prensa. En todos los procesos ó acusaciones criminales sobre libelo, la verdad podrá presentarse en testimonio al jurado, y si á este le pareciese que la cosa sobre que recae la acusacion es verdadera, y que se publicó con buenos motivos y fines justificables, la parte será absuelta y el jurado tendrá el derecho de decidir sobre la ley y sobre el hecho.

Sec. 10. El pueblo tendrá derecho de reunirse libremente para consultar el bien público, para dar instrucciones á sus representantes y para solicitar de la Legislatura el remedio de sus agravios.

Sec. 11. Todas las leyes de una naturaleza general tendrán un efecto uniforme.

Sec. 12. El poder militar estará subordinado al civil. El estado no mantendrá ningun ejército permanente en tiempo de paz; y en tiempo de guerra no se hará ninguna apropiacion para un ejército permanente por mas de dos años.

Sec. 13 Ningun soldado será acuartelado en ninguna casa en tiempo de paz, sin el consentimiento del dueño; ni en tiempo de guerra sinó de la manera que prescriba la ley.

Sec. 14. La representacion debe prorratearse segun la poblacion.

Sec. 15 Nadie será encarcelado por deuda en ninguna accion civil, por precepto interlocutorio ó final, escepto en casos de fraude; ni tampoco por multas de milicia en tiempo de paz.

Sec. 16 No se hará jamas ninguna ley que impida que alguno herede (bill of attainder), ni que tenga fuerza retroactiva ni que disminuya el valor de los contratos.

Sec 17. Los estranjeros actualmente avecindados ó que en adelante se avecindaren de buena fé en este Estado, gozarán de los mismos derechos y privilejios, con respecto á la posesion, goce y herencia de bienes que los ciudadanos nativos.

Sec. 18. No se tolerará en este estado la esclavitud, ni tampoco la servidumbre involuntaria á no ser en castigos de crímenes.

Sec. 19. No se violará el derecho del pueblo en cuanto á la seguridad de sus personas, casas, papeles y efectos, contra embargos y cateos injustos, y no se espedirá ningun decreto de prision sinó por causa probable, apoyada con juramento ó afirmacion, designando con presision el lugar que se ha de catear, y las personas y cosas que se han de embargar

Sec. 20. Solo se considerará como traicion contra el Estado, el suscitar guerra contra él, adherirse á sus enemigos ó darles ausilio y ayuda. Nadie podrá ser convicto de traicion sinó por el testimonio de dos testigos sobre un mismo hecho patente ó por confesion en tribunal abierto.

Sec 21 Esta enumeracion de derechos no se ha de interpretar de modo que queden minorados, ó negados otros derechos retenidos por el pueblo.

Articulo II

Derecho de Sufragio

Sec 1. Todo ciudadano blanco de los Estados Unidos, y todo ciudadano blanco de México, que haya elejido hacerse ciudadano de los Estados Unidos, bajo el tratado de paz cambiado y ratificado en Querétaro el dia 30 de Mayo de 1848, de la edad de veinte y un años, y que haya residido en el estado seis meses inmediatamente anteriores á la eleccion, y en el condado ó distrito en donde reclama su voto, treinta dias, tendrá derecho de votar en todas las elecciones autorizadas ó que en adelante puedan autorizarse por la ley, atendido, que nada de lo contenido en esta seccion podrá impedir á la Legislatura el admitir al derecho de sufragio á los indios, ó descendientes de los indios, en aquellos casos especiales que dicha legislatura juzgue propio y justo, mediante la concurrencia de los votos de dos terceras partes de la referida corporacion.

Sec. 2ª Los electores en todos los casos que no sean de traicion, felonia ó violacion de la tranquilidad pública estarán libres de arresto en los dias de eleccion, durante su asistencia á ella y á la ida y vuelta.

Sec. 3ª Ninguno elector tendrá obligacion de hacer servicios de milicia en los dias de eleccion, escepto en tiempo de guerra ó peligro público.

Sec. 4ª. En cuanto al derecho de votar, nadie ganará residencia por su presencia ni la perderá por su ausencia, mientras esté empleado en el servicio de los Estados Unidos, ó ocupado en la navegacion de las aguas de este estado ó de los Estados Unidos ó en alta mar; ni mientras esté manteniendo en alguno hospicio ó otro asilo á espensas públicas, ni mientras

esté detenido en alguna carcel publica.

Sec. 5. Ninguno idiota ó demente, y ninguno individuo convicto de algun crimen infame tendrá derecho de votar.

Sec. 6ª. Toda eleccion popular se hará por medio de boletas.

Articulo III
Distribucion de Poderes.

Los poderes del gobierno del estado de California se dividirán en tres distintos departamentos; en legislativo ejecutivo y judicial; y ninguno individuo que se halle encargado del ejercicio de los poderes que pertenecen propiamente á uno de estos departamentos, deberá ejercer funcion alguna perteneciente á ninguno de los otros dos, escepto en los casos que mas adelante se ordene ó permita espresamente.

Artículo IV.
Departamento Legislativo

Sec. 1. El poder legislativo de este estado se depositará en un senado y en una asamblea que formarán la Legislatura del Estado de California, y la fórmula de enacteamiento de toda ley será como sigue; "El Pueblo del Estado de California representado en su Senado y Asamblea, decreta lo siguiente".

Sec. 2. La Sesion de la legislatura será anual y comenzará el primer lúnes de Enero despues de la eleccion de sus miembros, á menos que el gobernador del estado convoque la legislatura en el interim por medio de proclama

Sec. 3. Los miembros de la asamblea serán elegidos anualmente por los electores habilitados de sus respectivos distritos, el martes despues del primer lúnes del mes de Noviembre, á menos que la legislatura disponga otra cosa, y durarán en sus empleos un año.

Sec. 4. Los senadores y vocales de la asamblea serán electores debidamente habilitados en los respectivos condados y distritos que representen.

Sec. 5. Los Senadores serán elegidos para el término de dos años, en el mismo tiempo y lugar que los vocales de la asamblea; y nadie podrá ser miembro del Senado ó de la asamblea que no haya sido ciudadano y vecino del Estado un año, y del Condado ó distrito donde haya sido elegido los seis meses anteriores á su eleccion.

Sec. 6. El número de Senadores no bajará de la tercera parte, ni escederá de la mitad de los vocales de la Asamblea; y en la primera sesion de la legislatura, despues que esta constitucion tenga efecto, los Senadores se dividirán con la igualdad posible por medio de sorteo en dos clases; los asientos de los de la primera clase vacarán al fin del primer año, de modo que la mitad de su número deberá elegirse anualmente.

Sec. 7. Cuando el número de Senadores se aumente, serán divididos por medio de sorteo, de modo que las dos clases queden tan iguales en su número como sea posible.

Sec. 8. Cada cámara nombrará sus propios empleados y calificará la idoneidad, eleccion y credenciales de sus propios vocales.

Sec. 9. La mayoría de cada cámara constituirá el número competente para funcionar; mas un número menor podrá suspender las sesiones de dia en dia, y y compeler la asistencia de miembros ausentes de la manera y bajo las penas que la Cámara respectiva disponga

Sec. 10. Cada cámara establecerá las reglas para sus propios procedimientos, y mediante la concurrencia de dos terceras partes de todos los miembros electos podrá espeler á uno de ellos.

Sec. 11. Cada cámara llevará un diario de sus procedimientos y lo publicará, y la votacion nominal de los vocales de cualesquiera de las dos cámaras, sobre cualquiera cuestion, se asentará en el diario á peticion de cualesquiera tres de sus miembros.

Sec. 12. Los vocales de la legislatura en todo caso escepto por traicion, felonía y violacion de la tranquilidad pública serán libres de arresto, y no estarán sujetos á ningun proceso civil durante la sesion de la legislatura, ni durante los quince dias inmediatamente ántes ó despues de cada sesion

Sec. 13. Siempre que ocurran vacantes en cualesquiera de las cámaras, el Gobernador ó el que haga sus veces espedirá decretos de eleccion para llenarlas.

Sec. 14. Las sesiones de cada cámara serán públicas, á ménos que cuando á juicio de la corporacion deban ser secretas.

Sec. 15. Ninguna de las cámaras podrá sin el consentimiento de la otra suspender sus sesiones por mas de tres dias, ni cambiarlas á otra parte distinta

Sec. 16. Todo proyecto de ley (bill) podrá iniciarse en cualesquiera de las cámaras de la legislatura, y todo proyecto que emane de una de ellas podrá ser enmendado en la otra.

Sec. 17. Todo proyecto de ley adoptado por la legislatura, se someterá al Gobernador antes que pase á ley. Si este lo aprueba lo firmará, y si no, lo devolverá á la cámara en donde se inició con sus objeciones, está las asentará en el diario y procederá á reconsiderarlo; si despues de esta reconsideracion vuelve á adoptarse en ámbas cámaras por votacion nominal de dos terceras partes de los vocales presentes en cada una de ellas, se reconocerá por ley á pesar de las objeciones del Gobernador. Todo proyecto de ley que no se devuelva dentro de diez dias (no contando el domingo) despues de haberse presentado al gobernador, se reconocerá por ley, lo mismo que si lo hubiese firmado, á no ser que la legislatura con suspender sus sesiones impida su devolucion.

Sec. 18. La asamblea solo tendrá poder de hacer acusaciones contra los empleados publicos (impeachments) y todas estas acusaciones se juzgarán por el Senado. Los Senadores, al entablar el juicio, prestarán juramento ó afirmacion y nadie será condenado sin la concurrencia de dos terceras partes de los vocales presentes.

Sec. 19. El gobernador podrá ser acusado por cualquier mal proceder en su empleo; mas el juicio en estos casos no pasará de deponerle de su empleo é inicapacitarle para obtener otro cualquiera de honor

confianza ó lucro en este estado; no obstante la parte sea convicta ó absuelta quedará sujeta á acusacion por medio de un gran jurado (indictment), proceso y castigo conforme á la ley. Todos los demas empleados civiles serán juzgados por mal proceder en sus empleos, de la manera que la legislatura disponga.

Sec. 20. Ningun Senador ó vocal de la asamblea podrá, durante el término por el cual haya sido elegido, ser nombrado para ningun empleo civil lucrativo en este estado, que haya sido creado durante dicho término, ó cuyos emolumentos hayan sido aumentados en el mismo periodo, á no ser que sea para algun empleo de eleccion popular.

Sec. 21. Ningun individuo que ocupe cualquier empleo lucrativo bajo los Estados Unidos ó bajo cualquiera otra potencia, será elegible para ningun empleo civil lucrativo en este estado; en la inteligencia de que los empleos de los oficiales de milicia que no tengan salario anual, los de los empleados locales y administradores de correos, cuya compensacion no esceda de quinientos pesos anuales, no se reputarán como lucrativos.

Sec. 22. Jamas será elegible para ningun empleo de honor, confianza ó lucro en este estado, ningun individuo convicto de la apropiacion ó desfalcacion de los fondos públicos del mismo; y la legislatura decretará cuanto ántes una ley que disponga el castigo de dicha apropiacion ó desfalcacion como felonía.

Sec. 23. No se estraerá de la Tesoreria ninguna cantidad de dinero sino á consecuencia de apropiaciones hechas por la ley; y una noticia exacta de los ingresos y egresos de los fondos públicos acompañará y se publicará con las leyes en cada sesion regular de la legislatura —

Sec. 24. Los vocales de la legislatura recibirán por sus servicios una compensacion que será fijada por la ley y que se pagará de la Tesoreria pública; mas ningun aumento á esta compensacion tendrá efecto durante el termino por el cual hayan sido elegidos los miembros de cualesquiera de las dos cámaras.

Sec. 25. Toda ley decretada por la legislatura abrazará un solo objeto que se espresará en el título; y ninguna ley será revesada ó enmendada con referencia á su título; mas en estos casos el acta revisada ó la seccion enmendada se volverá á decretar y se publicará por estenso.

Sec. 26. La legislatura no concederá ninguna divorcio.

Sec. 27. El estado no autorizará ninguna lotería, y no se permitirá la venta de billetes de lotería.

Sec. 28. La enumeracion de los habitantes de este estado se hará bajo las instrucciones de la legislatura en los años de mil ochocientos cincuenta y dos y mil ochocientos cincuenta y cinco, y en lo sucesivo al fin de cada diez años; y estas enumeraciones junto con el censo que se tome bajo las instrucciones del Congreso de los Estados Unidos el año de mil ochocientos cincuenta y al fin de cada diez años subsecuentes, servirán de base para

la representacion de ámbas cámaras de la legislatura.

Sec. 29. En la primera sesion de la legislatura que se celebre despues que se efectúen las enumeraciones que aquí se designan, dicha legislatura señalará el número de Senadores y vocales de la asamblea que deba haber, los que se prorratearán entre los diferentes condados y distritos que se establezcan por ley, segun el número de sus habitantes blancos; en la inteligencia que el número de los vocales de la asamblea no deberá bajar de veinte y cuatro, ni escedar de treinta y seis, hasta que el número de los habitantes de este estado llegue á cien mil; y despues que esto suceda, la representacion se arreglará del modo que el número de vocales de la asamblea nunca baje de treinta ni esceda de ochenta.

Sec. 30. Siempre que algun distrito congresional, senatorio ó de asamblea sea compuesto de dos ó mas condados, no será separado por ningun condado perteneciente á otro distrito; y ningun condado podrá dividirse á la formacion de algun distrito congresional, senatorio ó de asamblea.

Sec. 31. Podrán establecerse corporaciones por medio de leyes generales, mas no se fundarán por medio de ninguna acta especial sino para asuntos municipales. Todas las leyes generales y actas especiales decretadas en virtud de esta seccion po-

drán enmendarse de tiempo en tiempo ó anularse.

Sec. 32. Las deudas de las corporaciones podrán asegurarse por medio de la responsabilidad individual de sus miembros y por los demas medios que prescriba la ley.

Sec. 33. El término corporacion como se usa en este artículo, debe entenderse en el sentido de comprender todas las asociaciones y compañías de accionistas que tienen cualesquiera de las facultades ó privilegios de corporacion que no disfrutan los individuos ó compañías ordinarias. Todas las corporaciones tendrán derecho de entablar demandas, y estarán sujetas á ser procesadas en todos los Tribunales y bajo las mismas circunstancias que los individuos particulares.

Sec. 34. La legislatura no tendrá facultad de conceder ningun privilegio para asuntos de banco; pero se podrán formar asociaciones de banco bajo leyes generales para el depósito de oro y plata: en la inteligencia que estas asociaciones no deberán hacer emitir ó poner en circulacion ninguna libranza, cifra, cédula, certificado, pagaré ú otro papel, ó el papel de cualquiera otro banco, con el objeto de que se circulen como dinero.

Sec. 35. La legislatura de este estado prohibirá por ley que todo individuo ó individuos, asociacion, compañía ó corporacion ejerzan los privilegios de banco, crien papel moneda para que circule como dinero

Sec. 36. Todo accionista de corporacion ó de asociacion de accionistas será responsable individual y personalmente por su proporcion de todas sus deudas y compromisos.

Sec. 37. La legislatura tendrá la obligacion de proveer la organizacion de ciudades y aldeas incorporadas, y de restringir sus facultades en cuanto á imponer impuestos y contribuciones, tomar dinero prestado, contraer deudas y prestar su crédito, á fin de evitar los abusos en los impuestos y en la contraccion de deudas por dichas corporaciones municipales.

Sec. 38. En todas las elecciones hechas por la legislatura, sus vocales votarán viva voce, y sus votos se asentarán en el diario.

Artículo V

Departamento Ejecutivo.

Sec. 1. El supremo poder ejecutivo de este estado será conferido á un supremo magistrado que se intitulará Gobernador del Estado de California.

Sec. 2. El gobernador será elegido por los electores habilitados en el tiempo y lugar de las votaciones para los vocales de la Asamblea, y durará en su empleo dos años desde el tiempo de su instalacion y mientras se habilite á su sucesor.

Sec. 3. Ninguno será elegible para el empleo de Gobernador, escepto en la primera eleccion, que no haya sido ciudadano de los Estados Unidos y vecino de este estado

durante los dos años anteriores á la eleccion y que no tenga veinte y cinco años cumplidos al tiempo de dicha eleccion.

Sec. 4. Las certificaciones de cada eleccion para Gobernador se sellarán y se remitirán á la residencia del Gobierno dirigidas al Presidente de la Asamblea, quien durante la primera semana de la sesion las abrirá y las publicará en presencia de ámbas cámaras de la legislatura. El individuo que obtenga mayor número de votos será Gobernador; pero en el caso de que dos ó mas obtengan la mayoría de los votos en igual número, la legislatura escogerá para gobernador uno de dichos individuos que hayan tenido la mayoría dicha en igual número de votos, por medio de la votacion unida de ámbas cámaras.

Sec. 5. El Gobernador será comandante en jefe de la milicia, del ejército y de la escuadra del Estado.

Sec. 6. Manejará todos los asuntos ejecutivos con los empleados civiles y militares del gobierno, y podrá pedir informes por escrito á los empleados del departamento ejecutivo, sobre cualquier asunto relativo á las obligaciones de sus respectivos empleos.

Sec. 7. Tendrá cuidado de que las leyes se ejecuten fielmente.

Sec. 8. Cuando por alguna causa vacare algun empleo, y no la constitucion, ni las leyes dispongan cómo se ha de llenar la vacante, el Gobernador tendrá facultad de llenarla espidiendo un nombramiento cuya validez cesará al fin de la inmediata sesion de la legislatura, ó á la conclusion de la próxima eleccion popular.

Sec. 9. Podrá en tiempos estraordinarios convocar la legis-

latura por medio de una proclama; y manifestará á ámbas cámaras cuando se reunan, el objeto de la convocatoria.

Sec. 10. En cada sesion comunicará á la legislatura por medio de mensage, las circunstancias del estado y recomendará los asuntos que considere de necesidad.

Sec. 11. En caso de discordia entre las dos Cámaras con respecto al tiempo de la suspension de las sesiones, el Gobernador tendrá la facultad de suspenderlas por el tiempo que lo juzgue oportuno, con tal que no pase del período señalado para la reunion de la siguiente legislatura.

Sec. 12. Ningun individuo mientras se halle en el desempeño de algun empleo de los Estados Unidos ó de este Estado, podrá funcionar de Gobernador sino de la manera que así sea dispuesto espresamente en adelante.

Sec. 13. El Gobernador tendrá facultad de conceder suspensiones y perdones de toda clase de ofensas, despues de la conviccion, escepto en casos de traicion y acusacion de empleados públicos (impeachment), bajo las condiciones, restricciones y limitaciones que juzgue oportunas y con sujecion á los reglamentos que prescriban las leyes relativos al modo de solicitar perdones. En el caso de probarse la traicion tendrá el poder de suspender la egecucion de la sentencia, hasta dar cuenta del asunto á la legislatura en su primera sesion.

entónces esta concederá el perdon; ó mandará que se ejecute la sentencia ó que se suspenda por mas tiempo. Dará cuenta á la legislatura al principio de cada sesion, de todos los casos de suspension ó perdon que haya concedido, especificando el nombre del reo, el crímen de que haya sido convicto, la sentencia y su fecha y la fecha del perdon ó suspension.

Sec. 14. Habrá un sello de este estado, que estará á cargo del Gobernador, quien lo usará en toda materia de oficio, y se llamará el gran sello del estado de California.

Sec. 15. Todas las concesiones y despachos se expedirán en el nombre y por la autoridad del pueblo del estado de California, sellados con el gran sello del estado, firmados por el Gobernador y refrendados por el Secretario de estado.

Sec. 16. Se nombrará un vice-gobernador en el mismo tiempo y lugar y de la misma manera que el gobernador, y la duracion de su empleo y requisitos de elegibilidad serán tambien los mismos. Será presidente del Senado; pero solo tendrá voto en caso de empate. Si durante la vacante en el empleo de Gobernador, el vice-gobernador fuese acusado ó depuesto, renunciase, ó muriese, ó se hallase incapaz de desempeñar las obligaciones de su empleo, ó se hallase ausente del estado, el presidente del Senado hará veces de gobernador, mientras se provea la vacante ó cese la incapacidad.

Sec. 17. En caso de la acusacion del Gobernador, su remocion del empleo, muerte, incapacidad de desempeñar las facultades y obligaciones del empleo, su renuncia ó ausencia del estado, las facultades y obligaciones de dicho empleo recaerán sobre el vice-gobernador durante lo restante del término

ó mientras que la incapacidad cese. Mas cuando el gobernador con consentimiento de la legislatura se halle fuera del Estado en tiempo de guerra, al frente de una fuerza militar del mismo, continuará como comandante en gefe de toda la fuerza militar del Estado.

Sec. 18. Se elegirán de la manera que previene esta constitucion, un secretario de Estado, un contralor, un tesorero, un procurador general y un agrimensor general, la duracion de cuyos empleos y requisitos de elegibilidad serán los mismos que los prescritos para el gobernador y vice-gobernador.

Sec. 19. El Secretario de Estado será nombrado por el Gobernador previa recomendacion y consentimiento del Senado. Llevará un registro en limpio de las actas oficiales de la legislatura y del departamento egecutivo del Gobierno, y siempre que se requiera lo someterá con todos los asuntos pertenecientes, á cualesquiera de las cámaras de la legislatura; y desempeñará las demas obligaciones que la ley le prescriba.

Sec. 20. El contralor, el tesorero, el procurador general y el agrimensor general serán elegidos por medio de los votos unidos de ámbas cámaras de la legislatura, en su primera sesion bajo esta constitucion; y en lo sucesivo en el tiempo y lugar, y de la misma manera que el gobernador y vice-gobernador.

Sec. 21. El gobernador, vice-gobernador, secretario de Estado, contralor, tesorero, procurador general y agrimensor general, recibirán cada uno en tiempos señalados por sus servicios durante el tiempo de sus funciones una compensacion que no se aumentará ni se dis-

mismurá durante el periodo por el cual hayan sido electos; mas ninguno de estos empleados deberá recibir propina alguna por el desempeño de sus obligaciones oficiales

Articulo VI.

Departamento Judicial

Sec. 1. El poder judicial de este Estado residirá en un tribunal Supremo, en tribunales de circuito y de condado, y en jueces de paz. La legislatura podrá tambien establecer tribunales municipales y otros inferiores, segun se juzgue necesario.

Sec. 2. El Tribunal Supremo se compondrá de un juez principal y dos asociados, cualesquiera dos de los cuales bastarán para formar tribunal.

Sec. 3 Los jueces del tribunal Supremo serán elegidos en la eleccion general, por los electores habilitados del estado, y durarán en sus empleos seis años á contar desde el dia primero de Enero siguiente á su eleccion, en la inteligencia que la legislatura en su primera sesion eligirá un juez principal y dos asociados del tribunal Supremo, por medio de la votacion unida de ambas camaras, y los clasificará de modo que uno de ellos deje el destino cada dos años. Despues de la primera eleccion el juez mas antiguo en cuanto á la fecha de su nombramiento, será juez principal.

Sec. 4 El Tribunal Supremo tendrá jurisdiccion de apelacion en todos los casos en que la cuestion en disputa es-

ceda de doscientos pesos, o que tenga referencia á la legalidad de cualquiera tributo, alcabala, impuesto ó multa municipal, y en todos los casos criminales de felonia, sobre meras cuestiones de ley. Y dicho tribunal, y cada uno de sus jueces (como igualmente todos los de distrito y de condado) tendrán facultad para espedir preceptos de habeas corpus, á peticion de cualquiera individuo que se halle actualmente en custodia. Tendrán tambien la facultad de espedir todos los demas mandatos y proceso necesario para el egercicio de su jurisdiccion de apelacion y serán conservadores de la paz en todo el Estado.

Sec. 5. La primera legislatura dividirá el estado en un numero conveniente de distritos, sujeto á las modificaciones que de tiempo en tiempo requiera el bien publico. Para cada uno de estos distritos se elegirá un juez de distrito, por medio de la votacion unida de la legislatura en su primera sesion, y estos jueces durarán en sus empleos dos años despues del dia primero de Enero inmediato á su eleccion; y en lo sucesivo serán nombrados por los electores habilitados de sus respectivos distritos en la eleccion general, y desempeñarán sus funciones durante seis años.

Sec. 6 Los tribunales de distrito tendrán jurisdiccion original en ley y en equidad, en todos los casos civiles en que la cantidad en disputa esceda de doscientos pesos, esclusivo de intereses. En todos los casos criminales no provistos de otra manera, y en todas las

concernientes tocante á testamentarias, su jurisdicion será ilimitada.

Sec. 7. La legislatura dispondrá la eleccion popular de un escribano del tribunal supremo, y de escribanos de condado, procuradores de distrito, sheriffs, coroners y otros empleados necesarios, y designará por ley sus obligaciones y emolumentos. Los escribanos de condado serán ex officio escribanos de los tribunales de distrito en sus respectivos condados.

Sec 8. Se eligirá en cada uno de los condados organizados de este estado un juez de condado que durará en su empleo cuatro años: presidirá el tribunal de condado y egercerá las obligaciones de subrogado ó juez probatorio (para la prueba ó justificacion de los testamentos) El juez de condado asociado con dos jueces de paz que se designarán segun la ley, tendrá un tribunal de sesiones con la jurisdiccion criminal que la legislatura prescriba y egercerá las demas obligaciones que la ley requiera.

Sec. 9. El tribunal de condado tendrá la jurisdiccion que la legislatura prescriba, en los casos que se susciten en los tribunales de los jueces de paz, y en los casos especiales; mas no tendrá jurisdiccion original civil sino en dichos casos especiales

Sec. 10 El tiempo y el lugar de las sesiones del tribunal supremo, y de las generales y especiales de los tribunales de distrito, dentro de los diferentes distritos, se designarán por ley.

Sec. 11. Ningun empleado Judicial (escepto los jueces de paz) deberá recibir para su propio uso ninguna propina ni gages.

Sec. 12. La legislatura dispondrá la pronta publicacion de todos los estatutos y de las decisiones judiciales que estime conveniente, y todas las leyes y decisiones judiciales podrán publicarse libremente por cualquiera persona.

Sec. 13. Podrán establecerse tribunales de conciliacion, con las facultades y obligaciones que prescriba la ley; pero estos tribunales no tendrán poder de dar sentencia obligatoria á las partes, á menos que estas sometan voluntariamente sus diferencias, y se convengan en sugetarse al fallo ó se conformen con él, en presencia de dicho tribunal, en los casos que prescriba la ley.

Sec. 14. La legislatura determinará el número de jueces de paz que deban elegirse en cada condado, ciudad, pueblo y aldea incorporada del Estado, y señalará por ley sus facultades, obligaciones y responsabilidades: determinarán tambien, en que casos se puede apelar de los tribunales de los jueces de paz al de condado.

Sec. 15. Los jueces de los tribunales supremo y de distrito recibirán respectivamente, en tiempos señalados durante su permanencia en el empleo, una compensacion por sus servicios, pagadera de la tesorería cuya compensacion no se aumentará ni se

disminuirá durante el tiempo por el cual hayan sido electos. Los jueces de condado recibirán tambien respectivamente, en tiempos señalados, una compensacion por sus servicios, pagadera de la tesorería de sus respectivos condados, que no se aumentará ni se disminuirá durante el tiempo por el cual hayan sido electos.

Sec. 16. Los jueces supremos y de distrito no podrán ser elegidos á otros empleos, durante el tiempo por el cual hayan sido electos.

Sec. 17. Los jueces no darán instrucciones á los jurados con respecto á asuntos de hecho; mas podrán esponer el testimonio y esplicar la ley.

Sec. 18. La formula de todo proceso será „El Pueblo del Estado de California" y todo proceso criminal (prosecution) será seguido en el nombre y por la autoridad del mismo.

Articulo VII

Milicia

Sec. 1. La legislatura establecerá por ley el modo de organizar y disciplinar la milicia, de la manera que juzgue conveniente no siendo incompatible con la constitucion y leyes de los Estados Unidos.

Sec. 2. Los oficiales de la milicia serán elejidos ó nombrados de la manera que de tiempo en tiempo disponga la legislatura y sus despachos serán espedidos por el gobernador.

Sec. 3. El gobernador tendrá la facultad de poner la milicia sobre las armas, para ejecutar las leyes del estado, suprimir insurrecciones y repeler invasiones.

Artículo VIII.

Deudas del Estado.

La Legislatura no contraerá de manera alguna, ninguna deuda ó deudas, compromiso ó compromisos que separados ó en union de cualquiera otra deuda ó compromiso anterior, esceda de la suma de tres cientos mil pesos, escepto en caso de guerra, para repeler alguna invasion ó para suprimir alguna insurreccion, á ménos que dicha Legislatura no sea autorizada por alguna ley que tenga por objeto alguen fin ó empresa determinada que en ella se esprese con toda claridad, cuya ley determinará los medios y modos (no siendo préstamos) para cubrir el interes de dicha deuda ó compromiso conforme se vayan venciendo los plazos, y tambien para pagar ó chancelar el principal de dicha deuda ó compromiso, dentro de veinte años de contraida, y esta ley será irrevocable miéntras el principal é interes no sean pagados y chancelados; mas ninguna ley de esta naturaleza tendrá efecto hasta que se haya ~~cumplido~~ sometido al pueblo en una eleccion general y haya recibido ~~los votos~~ la mayoría de ~~todos~~ los votos dados en pro y en contra ~~de~~ en dicha eleccion; y todos los fondos recaudados en virtud de dicha ley serán apropiados solamente para el objeto especial que en ella se designe, ó en el pago de la deuda contraida en fuerza de dicha ley; y esta se publicará á lo ménos en un periodico (si lo hubiese) en cada distrito judicial del estado, durante los tres años anteriores á la eleccion en que deba someterse al pueblo.

Artículo IX

Educacion.

Sec. 1. La legislatura dispondrá la eleccion popular de un superintendente de instruccion pública, que durará en su empleo tres a. la ley prescribirá sus obligaciones, y él recibirá la compensacion que designe la Legislatura.

Sec. 2. La legislatura estimulará por todos los medios posibles el fomento de los progresos intelectuales, científicos, morales y agrícolas. El producto de todos los terrenos que cedan los Estados Unidos á este estado para el sosten de las escuelas y que se vendan ó otras fieram; y los quinientos mil acres de tierra concedidos á los nuevos Estados por acta de los Estados Unidos del año de 1861, que distribuye el producto de los terrenos públicos entre los diferentes estados de la union; y todos los bienes de los que mueran ab-intestato, ó sin heredero, como igualmente el tanto por ciento sobre las venta de los terrenos de este estado que conceda el Congreso, formarán un fondo perpétuo, cuyo interes unido á todas las rentas de los terrenos no vendidos y demas medios que provea la legislatura, serán apropiados inviolablemente para el sostenimiento de las escuelas de primeras letras en todo el estado.

Sec. 3. La legislatura establecerá un sistema de escuelas de primeras letras; y dispondrá que en cada distrito se abra y sostenga una de ellas durante tres meses cuando ménos en cada año; y todo distrito de escuela que deje de abrir y sostener una de estas escuelas, será privado de su proporcion del interes del fondo público mientras dure el descuido.

Sec. 3. La Legislatura proveerá á la proteccion, adelanto, ó otra disposicion de los terrenos que hayan sido reservados ó concedidos á este estado por los Estados Unidos ó por cualquiera persona ó personas, ó que en adelante se reserven ó concedan para el uso de una universidad; y los fondos procedentes de las ventas ó de la venta de estos terrenos ó de cualquiera otro orijen para el fin indicado, formarán un fondo permanente, cuyo interes se invertirá en el sosten de dicha universidad con las ramificaciones que la conveniencia pública requiera para la promocion de la Literatura, las artes y ciencias, segun las condiciones de dicha ~~donacion~~ cesion: y la Legislatura tendrá la obligacion de proveer cuanto ántes medios eficaces de proveer el adelanto y seguridad permanente de los fondos de dicha universidad.

Articulo x

Modo de reformar y revisar la constitucion.

Sec. 1. El Senado ó la asamblea podrá proponer cualquiera reforma ó reformas á esta constitucion, y siempre que la mayoría de los vocales electos para cadauna de las dos cámaras convengan en ello, la reforma ó reformas propuestas se asentarán en sus diarios con la votacion nominal que se dé; y esto se someterá á la futura legislatura que en seguida debe elejirse, y se publicará durante los tres meses anteriores á dicha eleccion; y si esta nueva legislatura aprobase la reforma ó reformas propuestas por medio de la mayoría de todos los vocales electos para ambas cámaras, entónces deberá la legislatura someter dicha reforma ó reformas al pueblo, al tiempo y en el modo que ella misma prescriba; y si el pueblo aprobase y ratificase dicha reforma ó reformas, por medio de

una mayoria de los electores habilitados para votar por los vocales de la legislatura, y que hayan votado sobre el asunto, entonces dicha reforma o reformas formaran parte de la constitucion.

Sec. 2. Y si en algun tiempo las dos terceras partes del Senado y de la asamblea juzgasen ser necesario revisar ó cambiar toda esta constitucion, encomendarán á los electores que voten en la primera eleccion de vocales de la legislatura en pro ó en contra de una convencion; y si ocurriese que una mayoria de los electores que hayan votado en dicha eleccion, diese su voto en favor de la convocacion de una convencion, entonces la legislatura en su primera sesion dispondrá por medio de una ley de convoque dicha convencion, la que deberá reunirse dentro de los seis meses de haberse decretado dicha ley; y dicha convencion se compondrá de un número de delegados que no baje del de los vocales de ambas cámaras de la Legislatura.

Articulo XI.

Disposiciones Miscelaneas.

Sec. 1. La primera sesion de la legislatura se celebrará en el Pueblo de San José, cuyo lugar será la residencia permanente del Gobierno, mientras no sea removida por ley: en la inteligencia no obstante, que las dos terceras partes de todos los vocales electos á dicha legislatura convengan en decretar tal ley.

Sec. 2. Todo ciudadano de este estado que despues de la adopcion de esta constitucion combata en duelo con arma mortifera ó dé ó acepte un desafio para com-

batir en duelo con arma mortifera, sea dentro de este estado ó fuera de él, ó que sirva de padrino ó a sabiendas coadyuve ó de cualquiera manera auxilie á los que así ofendan, será privado del derecho de poder obtener ningun empleo lucrativo y de gozar del de sufragio bajo esta Constitucion.

Sec. 3. Los vocales de la legislatura y todos los empleados del ramo ejecutivo y judicial, escepto aquellos empleados subalternos que esten exentos por ley, antes de entrar en el desempeño de sus respectivos empleos, prestarán y firmarán el siguiente juramento ó afirmacion. "Juro solemnemente (ó afirmo segun sea el caso) sostener la constitucion de los Estados Unidos y la del Estado de California; y que desempeñaré fielmente los deberes del empleo de _____ segun mi leal saber y entender."

Y no se exijirá ningun otro juramento, declaracion ni prueba para poder desempeñar cualquiera empleo ó merecer la confianza pública.

Sec. 4. La legislatura establecerá un sistema de gobierno de Condado y poblacion, el cual será lo mas uniforme que sea posible en todo el Estado.

Sec. 5. La legislatura tendrá facultad para disponer la eleccion de un cuerpo de superintendentes en cada condado, y estos superintendentes separada y juntamente desempeñarán las funciones que prescriba la ley.

Sec. 6. Todos los empleados cuya eleccion ó nombramiento no esté arreglado en esta Constitucion, y todos aquellos

cuyos empleos se establezcan en adelante por ley, serán elegidos por el pueblo ó nombrados del modo que disponga la legislatura.

Sec. 7. Cuando la duracion de algun empleo no esté provisto por esta constitucion, se podrá fijar por la ley; y de no verificarse así, tal empleo se desempeñará durante el beneplacito de la autoridad que hizo el nombramiento: mas la duracion de ningun empleo que no esté señalado por esta constitucion deberá pasar de cuatro años.

Sec. 8. El año fiscal comenzará el dia primero de Julio.

Sec. 9 Cada condado, ciudad, pueblo y aldea incorporada, proveerá al sostenimiento de sus propios empleados, bajo las restricciones y reglamentos que la legislatura prescriba.

Sec. 10 El crédito del estado no podrá de manera alguna darse ni prestarse en beneficio de ningun individuo, asociacion ó corporacion; y el estado no deberá directa ni indirectamente hacerse accionista en ninguna asociacion ó corporacion.

Sec. 11 El estado podrá ser procesado de la manera y ante los tribunales que disponga la ley.

Sec. 12 Ningun contrato de matrimonio podrá invalidarse porque carezca de conformidad con los requisitos de cualquiera secta religiosa, si por otra parte se haya celebrado debidamente.

Sec. 13. Los impuestos serán iguales y uniformes en todo el estado. Todas las propiedades en este estado pagarán

impuestos en proporcion de su valor, que se fijará segun disponga la ley: mas los avaluadores y recaudadores de los impuestos de pueblo, condado y estado serán elegidos por los electores habilitados del distrito, condado ó pueblo en que esten situadas las propiedades sobre que recaen los impuestos para objetos de estado, condado ó poblacion.

Sec. 14 Todos los bienes raices y muebles de la muger, poseidos ó reclamados por ella antes del matrimonio, y los que adquiera despues por medio de donacion, legado ó herencia, le pertenecerán separadamente, y se decretarán leyes para definir mas claramente los derechos de la muger con respecto, tanto á sus bienes separados como á los que tiene en comun con su marido. Tambien se decretarán leyes para el registro de los bienes separados de la muger.

Sec. 15. La legislatura protegerá por ley cierta porcion del hogar domestico y otros bienes de toda cabeza de familia, á fin de evitar su venta forzada.

Sec. 16. Ninguna propiedad pasará á manos muertas, á no ser para objetos de limosna.

Sec. 17. Todo individuo convicto de haber dado ú ofrecido algun soborno á fin de conseguir su eleccion ó nombramiento, será incapacitado para desempeñar todo empleo lucrativo en este Estado.

Sec. 18. Se decretarán leyes para escluir de los empleos á los que de aquí en adelante fuesen convictos de soborno, perjurio falsificacion ú otros crime-

nes mayores, y para evitar que tales indivi-
duos sirvan en los jurados y gocen del
derecho de sufragio. Este derecho de sufragio
será sostenido por leyes que arreglen las elec-
ciones y que prohiban bajo de penas adecua-
das todo influjo indebido en ellas por medio
del poder, soborno, tumulto ú otras practicas
impropias

Sec 19 La ausencia de este estado, de cualquiera
persona, á negocios del mismo estado ó de
los Estados Unidos, no pondrá en cuestion su
derecho de residencia

Sec 20 La pluralidad de votos dados en cualquiera
eleccion, constituirá eleccion, siempre que en
esta constitucion no se dispone otra cosa

Sec. 21 Toda ley, decreto, reglamento y disposicion que
por su naturaleza deban publicarse, se publi-
carán en ingles y en Castellano

Articulo XII

Limites

Los linderos del Estado de California serán como
sigue. comenzando en el punto de interseccion
del grado 42. de latitud Norte con el grado
120 de longitud Oeste de Greenwich, y siguiendo
la linea de dicho grado 120 de longitud Oeste,

hasta su interseccion con el grado 39. de latitud Norte; de alli siguiendo en linea recta, rumbo al Sud Este hasta el Rio Colorado en el punto de su interseccion con el grado 35. de latitud Norte; de alli siguiendo la mediania del canal de dicho Rio hasta la linea divisoria entre los Estados Unidos y Mégico, establecida por el tratado de 30. de Mayo de 1848; de alli siguiendo dicha linea divisoria, rumbo al Poniente hasta el Oceano Pacifico y tres millas inglesas adentro del mismo; de alli rumbo al Nor-Oeste y siguiendo la direccion de la Costa del Pacifico hasta el grado 42. de latitud Norte; de alli sobre la línea de dicho grado 42. de latitud Norte al lugar primeramente señalado: con inclusion tambien de todas las islas, puertos y bahias de la Costa del Pacifico y de sus inmediaciones.

Apendice.

Sec. 1 Todo derecho, accion, proceso reclamo y contrato, tanto de individuos como de corporaciones, y todas las leyes en fuerza al tiempo de la adopcion de esta constitucion que no sean incompatibles con la misma, continuarán lo mismo que si no se hubiese adoptado, hasta que se cambien ó se anulen por la legislatura.

Sec. 2. La legislatura dispondrá la remocion de todas las causas pendientes al tiempo de tener efecto esta constitucion ó los tribunales establecidos por la misma.

Sec. 3 Para obviar que al tener efecto esta constitucion, resulte algun inconveniente al servicio publico, no quedará ningun empleo anulado por ella, ni se cambiarán las leyes relativas á las obligaciones de los diferentes empleados, mientras que los nuevos que se han de nombrar en virtud de esta constitucion entren en el desempeño de sus funciones.

Sec. 4. Las prevenciones de esta constitucion con respecto al tiempo necesario para que los individuos desempeñen ciertos empleos mencionados en ella, no deberán entenderse con respecto á los empleados que elija el pueblo en la primera eleccion, ó la legislatura en su primera sesion.

Sec. 5. Todo ciudadano de California declarado votante legal por esta constitucion, y todo ciudadano de los Estados Unidos, residente en este estado el dia de la eleccion, tendrán derecho de votar en la primera eleccion general bajo esta constitucion, y sobre la cuestion de la adopcion de la misma.

Sec. 6 Esta Constitucion se someterá al pueblo para su ratificacion o recusacion en la eleccion general que tendrá lugar el Martes 13 de Noviembre proximo venidero. Por las presentes se le suplica al Ejecutivo del gobierno actual de California, espida una proclama al pueblo ordenando á los prefectos de los diferentes distritos o en caso de vacante al Sub-prefecto ó juez mas antiguo de primera instancia, convoquen dicha eleccion para el dia señalado en sus respectivos distritos La eleccion se hará del modo prescripto para los delegados á esta Convencion, escepto que los prefectos, sub-prefectos ó jueces de primera instancia que dispongan la eleccion en cada distrito, tendrán la facultad de designar cualquiera numero adicional de lugares para votar; y que en cada uno de dichos lugares, deberán los jueces e inspectores de eleccion llevar una lista formal de todos los votantes. Dichos jueces e inspectores

de eleccion tendran tambien la obligacion de recibir el dia señalado los votos de los electores habilitados para votar en dicha eleccion. Cada votante dará su parecer, depositando en la caja de boletas, una boleta escrita ó impresa que diga "por la Constitucion" ó "contra la Constitucion" ú otras palabras equivalentes que expliquen distintamente la voluntad del votante. Recibiran tambien estos jueces é inspectores los votos que se den para los diferentes empleados que deben elegirse en dicha eleccion, conforme queda aqui prevenido. Al fin de la eleccion los jueces é inspectores contarán cuidadosamente los votos dados y despacharán inmediatamente una noticia por duplicado de ellos al prefecto, sub-prefecto, ó juez mas antiguo de primera instancia (segun el caso) de sus respectivos distritos, y dicho prefecto, sub-prefecto ó juez de primera instancia, remitirá una de estas noticias por el conducto mas pronto y mas seguro al Secretario de estado. Al recibo de estas noticias, ó el dia diez de Diciembre siguiente, si no se hubiesen recibido antes, el cuerpo de escrutinio compuesto del Secretario de estado, uno de los jueces del tribunal superior, el juez de primera instancia y uno de los alcaldes del distrito de Monterey, ó cualesquiera tres de los ante mencionados empleados, tendrá la obligacion (en presencia de todos los que quieran asistir) de comparar los votos dados en dicha eleccion y de publicar un estracto de la votacion en uno ó mas de los periodicos de California. El ejecutivo luego que sepa que esta constitucion haya sido ratificado por el pueblo, espedirá una proclama noticiando el hecho, y desde entonces dicha constitucion quedará ordenada y establecida como Constitucion de California.

Sec. 7. En el caso de ratificarse esta Constitucion por el pueblo de California, se suplica por las presentes al Ejecutivo del gobierno actual, que luego que esto se averigue, de la manera que aque queda dispuesto, haga remitir una copia de ella en limpio, al Presidente de los Estados Unidos, para que este la someta al Congreso de los Estados Unidos.

Sec. 8. En la eleccion antemencionada, a saber el dia trece de Noviembre proximo venidero, se elegiran un gobernador, un vice-gobernador, los vocales de la legislatura y tambien dos representantes al Congreso.

Sec. 9. En el caso de ratificarse esta constitucion por el pueblo de California, la legislatura se reunirá en la residencia del gobierno el dia quince de Diciembre proximo venidero, y á fin de completar la organizacion de esa corporacion, el senado nombrará un presidente interino, mientras se instale el vice-gobernador en su empleo.

Sec. 10. A la organizacion de la legislatura, el secretario de estado tendrá la obligacion de someter á ambas camaras una copia del estracto hecho por el cuerpo de escrutinio, y (en caso de pedirse) las noticias originales de eleccion, para que cada camara pueda juzgar de la exactitud del informe de dicho cuerpo de escrutinio.

Sec. 11. La legislatura en su primera sesion elegirá los empleados que dispone esta constitucion sean elegidos por esa corporacion; y dentro de cuatro dias despues de su organizacion, elegirá dos senadores al Congreso de los Estados Unidos. Mas ninguna ley decretada por esta legislatura tendrá efecto hasta que la firme el gobernador despues de su instalacion en el empleo.

Sec. 12. Los senadores y representantes al congreso de los Estados Unidos elegidos por la legislatura y pueblo de California del modo que aquí se ha mandado, recibirán copias certificadas de esta Constitucion cuando se ratifique, que someterán al Congreso de los Estados Unidos pidiendo en nombre del pueblo de California, que el estado de California se admita en la Union Americana.

Sec. 13 Todos los empleados de este estado (fuera de los vocales de la legislatura) se instalarán en sus empleos el dia quince de Diciembre proximo venidero, o tan luego despues como sea practicable.

Sec. 14. Mientras la legislatura divida el estado en condados y distritos senatorios y de asamblea, como queda prevenido en esta constitucion

lo siguiente será el prorateo de las dos camaras de la legislatura, á saber: Los distritos de San Diego y los Angeles unidos elegirán dos senadores; los de Santa Barbara y San Luis Obispo unidos, elegirán un senador; el distrito de Monterey uno; el de San Francisco dos; el de San Jose uno; el de Sonoma uno; el del Sacramento cuatro; y el de San Joaquin cuatro. Y el distrito de San Diego elegirá un vocal de la asamblea; el de los Angeles dos; el de Santa Barbara dos; el de San Luis Obispo uno; el de Monterey dos; el de San Jose tres; el de San Francisco cinco; el de Sonoma dos; el del Sacramento nueve; y el de San Joaquin nueve.

Sec. 15. Mientras la legislatura no disponga otra cosa en conformidad con las prevenciones de esta constitucion, el salario del gobernador será diez mil pesos al año, y el del vice-gobernador será el duplo del pago de Senador del estado, y el pago de los vocales de la legislatura será diez y seis pesos al dia durante su asistencia y diez y seis pesos por cada veinte millas que tengan que andar por el camino usual, desde el lugar de su residencia hasta el de las sesiones de la legislatura y en su regreso. Y la legislatura fijará los salarios de todos los demas empleados, menos de los que elija el pueblo en la primera eleccion.

Sec. 16. La limitacion de los poderes de la legislatura contenida en el articulo 8.° de esta constitucion, no se hará estensiva á la primera legislatura elegida en virtud de la misma; y por las presentes queda autorizada esta legislatura para negociar la cantidad que sea necesaria para pagar los gastos del gobierno del Estado.

W. G. Marcy
Secretary

R. Semple
President & Delegate from Benicia

Joseph Aram
Charles T. Botts
Elam Brown
Elisha O. Crosby
José Mª Covarrubias
Stephen C. Foster
Pablo de la Guerra
Lewis Dent
Kimball H. Dimmick
A. J. Ellis
José Antº Carrillo
Wm M. Gwin
Edwd Gilbert
Henry Hill
J. D. Hoppe
Joseph Hobson
Lian Hanks
W. Halleck
L. W. Hastings
J. McHenry Hollingsworth
Jas. McHall Jones
Thomas O. Larkin
Francis J. Lippitt
Benj S. Lippincott

Benj. F. Moore
Rodman M. Price
Jno. Mc Dougal
Manuel Dominguez
Myron Norton
Pacificus Ord
Miguel de Pedrorena
M. M. McCarver
Antonio Mª Pico
Jacinto Rodriguez
Hugh Reid
J. A. Sutter
Jacob R. Snyder
Winfield Scott Sherwood
William E. Shannon
Abel Stearns
[illegible]
Wm M. Steuart
[illegible]
M. G. Vallejo
Thos L. Vermeule
J. P. Walker
O. M. Wozencraft

W. E. P. Hartnell
Translator for the Convention

Constitution
of the
State of California

We the people of California, grateful to Almighty God for our freedom: in order to secure its blessings, do establish this Constitution.

Article I. ~~Bill~~ Declaration of Rights

Sec 1.

All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty: acquiring, possessing and protecting property: and pursuing and obtaining safety and happiness.

Sec 2.

All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people; and they have the right ~~at such times,~~ to alter or reform the same, whenever the public good may require it.

Sec 3.

The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties, in all civil cases, in the manner to be prescribed by law.

Sec 4

The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State: ~~[illegible]~~ ~~[illegible]~~ and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience, hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Sec. 5 –

"The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sec. 6.

Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or ~~and~~ unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

Sec 7

All persons shall be bailable, by sufficient sureties: unless for capital offences, when the proof is evident or the presumption great.

Sec 8.

No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this state may keep with the consent of Congress in time of peace, and in cases of petit larceny under the regulation of the legislature) unless on presentment or indictment of a grand jury; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be

compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Sec 9.

Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was pub-

lished with good motives and for justifiable ends, the party shall be acquitted: and the jury shall have the right to determine the law and the fact.

Sec 10.

"The people shall have the right freely to assemble together, to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

Sec 11.

All laws of a general nature shall have a uniform operation.

Sec 12.

"The military shall be subordinate to the civil power. No standing army shall be kept up

by this state in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

Sec 13.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

Sec 14

Representation shall be apportioned according to population.

Sec 15

No person shall be imprisoned for debt, in any civil action on mesne or final process, unless in cases of fraud; and no person shall

be imprisoned for a militia fine in time of peace. Sec 16.

No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

Sec 17

"Foreigners who are, or who may hereafter become, bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

Sec 18.

Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

Sec 19.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Sec 20.

Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act,

or confession in open court.

Sec 21.

This enumeration of rights shall not be construed to impair or deny others, retained by the people.

Article 11. Right of Suffrage.

Sec 1. Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the 30th. day of May, 1848, of the age of twenty one years, who shall have been a resident of the state six months next preceding the election, and of the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law: Provided, that nothing herein contained, shall be construed to prevent the Legislature, by a

two thirds concurrent vote, from admitting to the right of Suffrage, Indians, or the de-scendants of Indians, in such special cases as such a proportion of the Legislative body may deem just and proper.

2. Electors shall, in all cases except treason, felony, or breach of the peace, be priveleged from arrest on the days of election, during their attendance at such election, going to and returning therefrom

3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

5th. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to

the privileges of an elector.

6. All elections by the people shall be by ballot.

Article III

Distribution of Powers.

The powers of the Government of the State of California shall be divided into three separate departments: the Legislative, the Executive, and Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

Article IV.

Legislative Department.

Section 1. The legislative power of this State shall be vested in a senate and assembly, which shall be designated the Legislature of the State of California; and the enacting clause of every law shall be as follows: "The people of the State of California,

represented in Senate and Assembly, do enact as follows."

Sec. 2. "The sessions of the legislature shall be annual, and shall commence on the first Monday of January, next ensuing the election of its members; unless the Governor of the State shall, in the interim convene the legislature by proclamation

Sec. 3. "The members of the Assembly shall be chosen annually, by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November, unless otherwise ordered by the legislature, and their term of office shall be one year.

Sec. 4. Senators and members of assembly shall be duly qualified electors in the respective counties and districts which they represent.

Sec. 5. Senators shall be chosen for the term of two years, at the same time and places as members of Assembly; and no person shall be a member of the senate or assembly, who has not been a citizen and inhabitant of the State one year, and of the county or district for which he shall be chosen, six months next before his election.

Sec. 6. The number of senators shall not be less than one thirds, nor more than one half, of that of the members of assembly; and at the first session of the legislature after this constitution takes effect, the senators shall be divided by lot as equally as may be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, so that one half shall be chosen annually.

Sec. 7. When the number of senators is increased, they shall be apportioned by lot, so as to keep the two classes as nearly equal in number as possible.

Sec. 8. Each house shall choose its own officers, and judge of the qualifications, elections, and returns, of its own members.

Sec. 9. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Sec 10. Each house shall determine the rules of its own proceedings, and may with the concurrence

of two thirds of all the members elected, expel a member.

Sec. 11. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house, on any question, shall at the desire of any three members present be entered on the journal.

Sec. 12. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest, ~~nor shall they~~ and they shall not be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session

Sec. 13. When vacancies occur in either house, the Governor or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

Sec. 14. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

Sec. 15. Either house shall, without the consent of the other, adjourn for more than three

days, nor to any other place than that in which they may be sitting.

Sec. 16. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended in the other.

Sec. 17. Every bill which may have passed the legislature, shall before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon the journal and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two thirds of the members of each house present, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him, (Sundays excepted,) the same shall be a law, in like manner as if he had signed it, unless the legislature by adjournment, prevent such return.

Sec. 18. The assembly shall have the sole power of impeachment; and all impeachments shall

be tried by the senate. When sitting for that purpose, the senators, shall be upon oath or affirmation; and no person shall be convicted, without the concurrence of two-thirds of the members present.

Sec. 19. The Governor

Lieutenant Governor, Secretary of State, Comptroller, Treasurer, Attorney-General, Surveyor-General, Justices of the Supreme Court and Judges of the district courts

shall be liable to impeachment for any misdemeanour in office; but judgment in such cases, shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit, under the state; but the party convicted, or acquitted, shall, nevertheless, be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried, for misdemeanours in office, in such manner as the legislature may provide.

Sec. 20. No senator, or member of assembly, shall, during the ~~term~~ for which he shall have been elected, be appointed to any civil office of profit, under this state, which shall have been created, or the emoluments of which shall have been increased, during such term, ex-

cept such offices as may be filled by elections by the people.

Sec. 21. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit, under this state: Provided, that officers in the militia to which there is attached no annual salary, or local officers and postmasters whose compensation does not exceed five hundred dollars per annum shall not be deemed lucrative.

Sec. 22. No person who shall be convicted of the embezzlement, or defalcation, of the public funds of this state, shall ever be eligible to any office of honor, trust, or profit, under this state: and the legislature shall, as soon as practicable, pass a law, providing for the punishment of such embezzlement, or defalcation, as a felony.

Sec. 23. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public monies, shall be attached to, and published with, the laws at every regular session of the legislature.

Sec. 24. The members of the legislature shall receive for their services, a compensation to be fixed by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected.

Sec. 25. Every law enacted by the legislature, shall embrace but one object, and that shall be expressed in the title: and no law shall be revised, or amended by reference to its title; but in such case, the act revised, or section amended shall be re-enacted and published at length.

Sec. 26. No divorce shall be granted by the legislature.

Sec. 27. No lottery shall be authorized by this state nor shall the sale of lottery tickets be allowed.

Sec. 28. The enumeration of the inhabitants of this state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and fifty two, and one thousand eight hundred and fifty five,

and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken, under the direction of the Congress of the United States, in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both houses of the legislature.

Sec. 29. The number of senators and members of assembly, shall, at the first session of the legislature, holden after the enumerations herein provided for are made, be fixed by the legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of members of assembly shall not be less than twenty four, nor more than thirty six, until the number of inhabitants, within this state, shall amount to one hundred thousand; and after that period, at such ratio that the whole number of members of assembly shall never be less than thirty, nor more than eighty.

Sec. 30. When a congressional, senatorial, or assembly district, shall be composed of two or more counties, it shall not be separated by any county belonging to another district; and no

county shall be divided, in forming a congressional, senatorial or assembly district.

Sec. 31. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

Sec. 32. Dues from Corporations, shall be secured by such individual liability of the corporators, and other means, as may be prescribed by law.

Sec. 33. The term corporations as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all Courts, in like cases as natural persons.

Sec. 34. The legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed under general laws, for the

deposite of gold and silver: but no such associations shall make, issue, or put in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.

Sec. 35. The legislature of this state shall prohibit, by law, any person or persons, association, company or corporation from exercising the privileges of banking, or creating paper to circulate as money.

Sec. 36. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for his proportion of all its debts and liabilities.

Sec. 37. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.

Sec. 38. In all elections by the legislature, the members thereof shall vote viva voce and the votes shall be entered on the journal.

Article V.

Executive Department.

Section 1. The Supreme Executive power of this State shall be vested in a chief magis=trate, who shall be styled the Governor of the State of California.

Section 2. The Governor shall be elected by the qualified electors, at the time and places of voting for members of Assembly, and shall hold his office two years from the time of his installation, and until his successor shall be qualified.

Section 3. No person shall be eligible to the Office of Governor (except at the first election) who has not been a citizen of the United States and a resident of this State two years next preceding the election, and attained the age of twenty=five years at the time of said election.

Section 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of Government, directed to the Speaker of the Assembly, who shall,

during the first week of the Session, open and publish them in presence of both houses of the Legislature. The person having the highest number of votes shall be Governor; but in case any two or more have an equal and the highest number of votes the Legislature shall, by joint-vote of both houses, choose one of said persons, so having an equal and the highest number of votes, for Governor.

Section 5 The Governor shall be Commander-in-chief of the Militia, the army and navy, of this State.

Sec. 6. He shall transact all executive business with the officers of Government, civil and military, and may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.

Sec. 7. He shall see that the laws are faithfully executed.

Sec. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power

to fill such vacancy, by granting a com=
=mission, which shall expire at the end
of the next session of the Legislature, or
at the next election by the people.

Sec. 9. He may, on extraordinary occasions con=
=vene, the legislature by proclamation, and
shall state to both Houses, when assembled,
the purpose for which they shall have been
convened.

Sec. 10. He shall communicate, by message,
to the Legislature, at every session, the Condition
of the State, and recommend such matters
as he shall deem expedient.

Sec. 11. In case of a disagreement between the two
Houses, with respect to the time of adjourn=
=ment, the Governor shall have power to ad=
=journ the Legislature to such time as he may
think proper; provided it be not beyond the
time fixed for the meeting of the next
Legislature.

Sec. 12. No person shall, while holding any office
under the United States, or this State, ~~execute~~ exercise
the office of Governor, except as hereinafter
expressly provided.

Sec. 13. The Governor shall have the power to grant reprieves, and pardons after conviction, for all offenses except treason, and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of apply=ing for pardons. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature, at the beginning of every session, every case of reprieve, or pardon granted, stating the name of the Convict, the crime of which he was convicted, the sentence and its date and the date of the pardon or reprieve.

Sec. 14. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The great seal of the State of California".

Sec. 15. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed

with the great seal of the State, signed by the Governor and countersigned by the Secretary of ~~the~~ State.

Sec. 16. A Lieutenant Governor shall be elected at the same time and places, and in the same manner as the Governor; and his term of Office, and his qualifications of eligibility, shall also be the same. He shall be President of the Senate, but shall only have a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die or become incapable of performing the duties of his Office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

Sec. 17. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation or absence from the State, the powers and duties of the Office shall devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease. But when the Governor shall,

with the consent of the Legislature, be out of the State in time of war, at the head of any military force thereof, he shall continue commander-in-chief of all the military force of the State.

Sec. 18. A Secretary of State, a Comptroller, a Treasurer, an Attorney General and Surveyor General, shall be chosen in the manner provided in this Constitution; and the term of office, and eligibility of each shall be the same as are prescribed for the Governor and Lieutenant Governor.

Sec. 19. The Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall keep a fair record of the official acts of the legislative and executive departments of the Government; and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature; and shall perform such other duties as shall be assigned him by law.

Sec. 20. The Comptroller, Treasurer, Attorney General and Surveyor General, shall be chosen by joint-vote of the two

Houses of the Legislature, at their first session under this Constitution, and thereafter shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant Governor.

Sec. 21. The Governor, Lieutenant Governor, Secretary of State, Comptroller, Treasurer, Attorney General, and Surveyor General, shall each, at stated times during their continuance in office, receive for their services a compen=sation, which shall not be increased or diminished during the term for which they shall have been elected; but neither of these officers shall receive for his own use, any fees for the performance of his official duties.

Article VI.

Judicial Department.

Section 1. The judicial power of this state shall be vested in a Supreme Court, in District Courts, in County Courts, and in Justices of the peace. The legislature may also establish such municipal and other inferior courts as may be deemed necessary.

Sec. 2. The Supreme Court shall consist of a Chief Justice, and two associate Justices; any two of whom shall constitute a quorum.

Sec. 3. The Justices of the Supreme court shall be elected at the general election, by the qualified electors of the state, and shall hold their office for the term of six years from the first day of January next after their election; provided that the legislature shall, at its first meeting, elect a Chief Justice and two associate Justices of the Supreme Court, by joint vote of both houses, and so classify them that one shall go out of office every two years. After the first election the Senior Justice in Commission shall be the Chief Justice.

Sec. 4. The Supreme Court shall have appellate jurisdiction in all cases when the matter in dispute exceeds two hundred dollars; when the legality of any tax, toll, or impost or municipal fine is in question; and in all criminal cases amounting to felony on questions of law alone. And the said Court, and each of the Justices thereof, as well as all district and County Judges, shall have power to issue writs of habeas corpus at the instance of any person held in actual custody. They shall

also have power to issue all other writs and process necessary to the exercise of their appellate jurisdiction, and shall be conservators of the peace throughout the state.

Sec. 5. The state shall be divided by the first legislature into a convenient number of districts subject to such alteration from time to time as the public good may require; for each of which a district Judge shall be appointed by the joint-vote of the legislature, at its first meeting, who shall hold his office for two years from the first day of January next after his election; after which, said Judges shall be elected by the qualified electors of their respective districts, at the general election, and shall hold their office for the term of six years.

Sec 6. The District courts shall have original jurisdiction, in law and equity, in all civil cases where the amount in dispute exceeds two hundred dollars, exclusive of interest. In all criminal cases not otherwise provided for, and in all issues of fact joined in the probate court, their jurisdiction shall be unlimited.

Sec. 7. The legislature shall provide for the election, by the people, of a clerk of the supreme court, and county clerks, district attorneys, Sheriffs, Coroners, and other necessary officers; and shall fix, by law, their duties and compensation. County clerks shall be ex officio, clerks of the district courts in and for their respective Counties.

Sec. 8. There shall be elected in each of the organized counties of this state, one County Judge, who shall hold his office for four years. He shall hold the county court, and perform the duties of Surrogate, or Probate Judge. The County Judge, with two Justices of the Peace, to be designated according to law, shall hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as shall be required by law.

Sec. 9. The County Court shall have such jurisdiction, in cases arising in Justices courts, and in special cases, as the legislature may prescribe, but shall have no original civil jurisdiction, except in such special cases.

Sec. 10. The times and places of holding the terms of the Supreme Court, and the general and special terms of the District Courts, within the several districts, shall be provided for by law.

Sec. 11. No judicial officer, except a Justice of the Peace, shall receive, to his own use, any fees, or perquisites of office.

Sec. 12. The legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person.

Sec. 13. Tribunals for conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference, and agree to abide the judgment, or assent thereto in the presence of such tribunal, in such cases as shall be prescribed by law.

Sec. 14. The legislature shall determine the number of Justices of the Peace, to be elected in each County, City, Town, and incorporated village of the State, and fix by law, their powers, duties, and responsibilities. It shall also determine in what cases appeals may be made from Justices' Courts to the County Court.

Sec. 15. The Justices of the Supreme Court, and Judges of the District Courts, shall severally, at stated times during their continuance in office, receive for their services a compensation, to be paid out of the treasury, which shall not be increased or diminished during the term for which they shall have been elected. The County Judges shall also, severally, at stated times receive for their services a compensation, to be paid out of the County treasury of their respective Counties, which shall not be increased or diminished during the term for which they shall have been elected.

Sec. 16. The Justices of the Supreme Court, and District Judges, shall be ineligible to any other office, during the term for which they shall have been elected.

Sec. 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

Sec. 18. The style of all process shall be "The People of the State of California;" and all prosecutions shall be conducted in the name and by the authority of the same.

Article VII.

Militia.

Section 1. The legislature shall provide, by law, for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

Sec. 2. Officers of the militia shall be elected, or appointed, in such manner as the legislature shall, from time to time, direct; and shall be commissioned by the Governor.

Sec. 3. The Governor shall have power to call forth the militia, to execute the laws of the State, to suppress insurrections, and repel invasions.

Article VIII.

State Debts.

The legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall, singly or in the aggregate, with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrection, unless the same shall be authorized by some law for some single object or work, to be distinctly specified therein; which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability, as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such

law, shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one be published therein, throughout the state, for three months next preceding the election at which it is submitted to the people.

Article IX. — Education.

Section 1. The legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

Sec. 2 — The legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that may be granted by the United States to this state, for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of lands granted to the new states, under an act of Congress distributing

the proceeds of the public lands among the several states of the Union, approved A.D. 1841; and all estates of deceased persons, who may have died without leaving a will, or heir, and also such per cent, as may be granted by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide shall be inviolably appropriated to the support of Common Schools throughout the state.

Sec. 3. The legislature shall provide for a system of common schools, by which a school shall be kept up and supported, in each district, at least three months in every year: and any school district neglecting to keep up and support, such a school, may be deprived of its proportion of the interest of the public fund, during such neglect.

Sec. 4. The legislature shall take measures for the protection, improvement, or other disposition, of such lands as have been, or may hereafter be, reserved or granted by the United States, or any person or persons, to this state for the use of a University; and the funds accruing from the

rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may demands, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Article X.

Mode of amending and revising the Constitution.

Section 1. Any amendment, or amendments, to this constitution, may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments, shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall

be published for three months next preceding the time of making such choice: And if, in the legislature next chosen, as aforesaid, such proposed amendment or amendments, shall be agreed to, by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment, or amendments, to the people, in such manner, and at such time, as the legislature shall prescribe: and if the people shall approve and ratify such amendment, or amendments, by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment or amendments, shall become part of the Constitution.

Sec. 2. And if, at any time, two thirds of the senate and assembly, shall think it necessary to revise or change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a Convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a Convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after

the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

Article XI.

Miscellaneous Provisions.

Section 1. The first session of the legislature shall be held at the Pueblo de San José; which place shall be the permanent seat of Government, until removed by law: Provided, however, that two thirds of all the members elected to each house of the legislature, shall concur in the passage of such law.

Sec. 2. Any citizen of this state, who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this state or out of it; or who shall act as seconds, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this constitution.

Sec. 3 Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the constitution of the United States, and the Constitution of the State of California; and that I will faithfully discharge the duties of the office of ___ according to the best of my ability." And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

Sec. 4. The legislature shall establish a system of county and town Governments, which shall be as nearly uniform as practicable, throughout the state.

Sec. 5. The legislature shall have power to provide for the election of a board of supervisors in each county: and these supervisors shall, jointly and individually, perform such duties as may be prescribed by law.

Sec. 6. All officers whose election or appointment is not provided for by this Constitution, and

all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the legislature may direct.

Sec. 7. When the duration of any office is not provided for by this constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office, not fixed by this Constitution, ever exceed four years.

Sec 8. The fiscal year shall commence on the first day of July.

Sec 9. Each county, town, city and incorporated village, shall make provision for the support of its own officers, subject to such restrictions and regulations as the legislature may prescribe.

Sec. 10. The credit of the state shall not in any manner, be given or loaned to, or in aid of any individual, association, or corporation; nor shall the state, directly or indirectly, become a stockholder, in any association or corporation.

Sec. 11. Suits may be brought against the state, in such manner, and in such courts, as shall be directed by law.

Sec. 12. No contract of marriage, if otherwise duly made, shall be invalidated, for want of conformity to the requirements of any religious sect.

Sec. 13. Taxation shall be equal and uniform throughout the state. All property, in this state, shall be taxed in proportion to its value, to be ascertained as directed by law: but assessors and collectors of town, county, and state taxes, shall be elected by the qualified electors of the district, county, or town, in which the property taxed for state, county, or town purposes, is situated.

Sec. 14. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property: and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property

Sec. 15. The legislature shall protect, by law, from forced sale, a certain portion of the homestead and other property of all heads of families.

Sec. 16. No perpetuities shall be allowed, except for eleemosynary purposes.

Sec. 17. Every person shall be disqualified from holding any office of profit in this state, who shall have been convicted of having given, or offered a bribe, to procure his election or appointment.

Sec. 18. Laws shall be made, to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

Sec. 19. Absence from this state, on business of the state or of the United States, shall not affect the question of residence of any person.

Sec. 20. A plurality of the votes given at any

election shall constitute a choice, where not otherwise directed in this Constitution.

Sec. 21. All laws, decrees, regulations, and provisions, which, from their nature, require publication, shall be published in English and Spanish.

Article XII. - Boundary.

The Boundary of the State of California shall be as follows; commencing at the point of intersection of the 42° degree of north latitude with the 120th degree of longitude west from Greenwich, and running south on the line of said 120th degree of west longitude, until it intersects the 39th degree of north latitude; thence running in a straight line, in a southeasterly direction, to the River Colorado, at a point where it intersects the 35th degree of north latitude; thence down the middle of the channel of said river, to the boundary line between the United States and Mexico, as established by the treaty of May 30th 1848; thence running west, and along said boundary line, to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction, and following the direction of the Pacific coast to the 42d degree of north latitude; thence on the line of said 42nd degree of north latitude to the place of beginning; also, all the islands, harbors, and bays, along and adjacent to the Pacific Coast

Schedule.

Section 1. All rights, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, until altered or repealed by the legislature, shall continue as if the same had not been adopted.

Sec. 2. The legislature shall provide for the removal of all causes which may be pending when this constitution goes into effect, to courts created by the same.

Sec. 3. In order that no inconvenience may result to the public service, from the taking effect of this constitution, no office shall be superseded thereby, nor the laws relative to the duties of the several officers be changed until the entering into office of the new officers to be appointed under this constitution.

Sec. 4. The provisions of this constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned, shall not be held to apply to officers chosen by the people at the first election, or by the legislature at its first session.

Sec. 5. Every citizen of California, declared a legal voter by this constitution, and

every citizen of the United States, a resident of this state on the day election, shall be entitled to vote at the first general election under this constitution, & on the the question of the adoption thereof.

Sec. 6. This Constitution shall be submitted to the people, for their ratification or rejection, at the general election to be held on Tuesday, the thirteenth day of November next. The Executive of the Existing Government of California is hereby requested to issue a proclamation to the people, directing the Prefects of the several districts, or in case of vacancy, the Sub Prefects, or Senior Judge of First Instance, to cause such election to be held on the day aforesaid, in their respective districts. The election shall be conducted in the manner which was prescribed for the election of delegates to this convention, except that the Prefects, Sub Prefects or Senior Judge of first Instance ordering such election in each district shall have power to designate any additional number of places for opening the polls, and that, in every place of holding the election, a regular poll list shall be kept by the judges and inspectors of election. It shall also be the duty of these judges and inspectors of election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion, by depositing in the ballot-box a ticket, whereon shall be written, or printed "For the Constitution" or "Against the Constitution", or some such words as will distinctly convey the intention of the voter. These judges and

inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election, the judges and inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the Prefect, Sub Prefect, or Senior Judge of first Instance, as the case may be of their respective districts, and said Prefect, Sub-Prefect or Senior Judge of first Instance shall transmit one of the same, by the most safe and rapid conveyance, to the Secretary of State. Upon the receipt of said returns or on the tenth day of December next, if the returns be not sooner received; it shall be the duty of a board of Canvassers, to consist of the Secretary of State, one of the Judges of the Superior Court, the Prefect, Judge of first Instance, and an Alcalde of the district of Monterey, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the Executive will also immediately after ascertaining that the constitution has been so ratified by the people make proclamation of the fact; and thenceforth this constitution shall be ordained and established as the constitution of California

Sec. 7. If this Constitution shall be ratified by the people of California, the Executive of the existing government is hereby requested immediately after the same shall be asce-

tained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the President of the United States, in order that he may lay it before the Congress of the United States.

Sec 8. At the general election aforesaid, viz: the thirteenth day of November next, there shall be elected a Governor, Lieutenant Governor, members of the legislature, and also two members of Congress.

Sec. 9. If this constitution shall be ratified by the people of California, the legislature shall assemble at the seat of Government, on the fifteenth day of December next, and in order to complete the organization of that body, the Senate shall elect a President pro tempore, until the Lieutenant Governor shall be installed into office.

Sec. 10. On the organization of the legislature, it shall be the duty of the Secretary of State, to lay before each house a copy of the abstract, made by the board of Canvassers, and, if called for, the original returns of election, in order that each house may judge of the correctness of the report of said board of Canvassers.

Sec. 11. The legislature, at its first session, shall elect such officers as may be ordered by this constitution, to be elected by that body; and, within four days after its organization, proceed to elect two

senators to the congress of the United States. But no law passed by this legislature shall take effect until signed by the Governor after his installation into office.

Sec. 12. The senators and Representatives to the Congress of the United States, elected by the legislature and people of California, as herein directed, shall be furnished with certified copies of this Constitution, when ratified, which they shall lay before the congress of the United States, requesting, in the name of the people of California, the admission of the state of California into the American Union

Sec. 13. All officers of this state, other than members of the legislature, shall be installed into office on the fifteenth day of December next, or as soon thereafter as practicable

Sec. 14. Until the legislature shall divide the state into counties, and senatorial and assembly districts, as directed by this constitution, the following shall be the apportionments of the two houses of the legislature. viz: The districts of San Diego and Los Angeles, shall jointly elect two senators; the districts of Santa Barbara and San Luis Obispo, shall jointly elect one senator; the districts of Monterey, one senator; the district of San José, one senator; the district of San Francisco, two senators; the district of Sonoma, one senator; the district of

Sacramento, four senators; and the district of San Joaquin, four senators:— And the district of San Diego shall elect one member of the Assembly; the district of Los Angeles, two members of assembly; the districts of Santa Barbara, two members of assembly; the districts of San Luis Obispo, one member of assembly; the districts of Monterey two members of assembly; the district of San Jose, three members of assembly; the districts of San Francisco five members of assembly; the district of Sonoma, two members of assembly; the district of Sacramento, nine members of assembly; and the district of San Joaquin, nine members of assembly.

Sec. 15. Until the legislature shall otherwise direct, in accordance with the provisions of this constitution, the salary of the Governor shall be, ten thousand dollars per annum; and the salary of the Lieutenant Governor, shall be double the pay of a State Senator; and the pay of members of the legislature shall be, sixteen dollars per diem, while in attendance, and sixteen dollars for every twenty miles travel by the usual route from their residences, to the place of holding the session of the legislature and in returning therefrom. And the legislature shall fix the salaries of all officers, other than those elected by the people, at the first election.

Sec. 16. The limitation of the powers of the legislature, contained in Article 8th. of this Constitution, shall not extend to the first legislature elected under the same, which is hereby authorized to negotiate for such amounts as may be necessary to pay the expenses of the state Government

To the People of California

The undersigned, delegates to a convention authorized to form a Constitution for the State of California, having to the best of their ability, discharged the high trust committed to them, respectfully submit the accompanying plan of Government for your approval ~~or rejection~~. Acknowledging the great fundamental principles, that all political power is inherent in the people, and that Government is instituted for the protection, security and benefit of the people, the Constitution presented for your consideration, is intended only to give such organic powers to the several departments of the proposed government, as shall be necessary for its ~~effectual~~ efficient administration; and while it is believed no power has been given, which is not thus essentially necessary, the Convention deem individual rights as well as public ~~rights and~~ liberties are amply secured, by the People still retaining not only the great conservative power of free choice and election of all officers, agents and representatives, but the inalienable right to alter or reform their government, whenever the public good may require.

Although born in different climes, coming from different States, imbued with local feelings, and educated perhaps with predilections for peculiar institutions, laws and customs, the Delegates assembled in Convention, as Californians, and carried on their deliberations in a spirit of amity, compromise and mutual concession for the public weal.

It cannot be denied that a difference of opinion was entertained in the convention, as to the policy and expediency of several measures embodied in the Constitution; but looking to the great interests of the State of California, the peace, happiness and prosperity of the whole people — individual opinions were freely surrendered to the will of the majority, and with one voice, we respectfully but earnestly recommend to our fellow citizens, the adoption of the Constitution, which we have the honor to submit.

In establishing a boundary for the State, the Convention conformed as near as was deemed practicable and expedient, to great natural land marks, so as to bring into a Union, all those, who should be included by mutual interests, ~~and~~ mutual wants, and mutual dependence. No portion of territory is included, the inhabitants of which, were not or might not have been legitimately represented in the Convention, under the authority by which it was convened; and in unanimously resolving, to exclude Slavery from the State of California, the great principle has been maintained, that to the people of each State and territory, alone, belongs the right to establish such municipal regulations, and to decide such questions, as affect their own peace, prosperity and happiness.

A free people, in the enjoyment of an elective government, capable of securing their civil, religious and ~~and~~ political rights, may rest assured these inestimable privileges can never be wrested from them, so long as they keep a watchful eye on the operations of their government, and hold to strict accountability, those to whom power is delegated. No people were ever yet enslaved, who knew and dared maintain the co-relative rights and obligations of free and independent citizens. A knowledge of the laws - their moral force and efficacy, thus becomes an essential element of freedom, and makes public education of primary importance. In this view, the Constitution of California provides for, and guarantees in the most ample manner, the establishment of common schools, seminaries and colleges: so as to extend the blessings of education throughout the land and secure its advantages to the present and future generations.

Under the peculiar circumstances in which California becomes a State - with an unexampled increase of a population, coming from every part of the world - speaking various languages and imbued with different feelings and prejudices - no form of government, no system of laws, can be expected to meet with immediate and unanimous assent. It is to be remembered moreover, that a considerable portion of our fellow-citizens are natives of Old Spain, Californians, and those who have voluntarily relinquished the rights of Mexicans, to enjoy those of American citizens. Long accustomed to a different form of government, regarding the rights

of person and of property as interwoven with ancient usages and time honored customs, they may not at once see the advantages of the proposed new government or yield an immediate approval of new laws, however salutary their provisions or conducive to the general welfare. But it is confidently believed, when the government as now proposed, shall have gone into successful operation, when each department thereof shall move on harmoniously, in its appropriate and respective sphere; when laws based on ~~those~~ the eternal principles of equity and justice, shall be established; when every citizen of California, shall find himself secure in life, liberty and property — all will unite in the cordial support of institutions, which are not only the pride and boast of every true hearted citizen of the Union, but have gone forth, a guiding light to every people, groping through the gloom of religious superstitution or political fanaticism. Institutions, which even now, while all Europe is agitated with the convulsive efforts of nations battling for liberty, have become the mark and model of governments, for every people who would hold themselves, free, sovereign, and independent.

With this brief exposition of the views and opinions of the Convention, the undersigned submit the constitution and plan of government for your approval ~~or rejection~~. They earnestly recommend it to your calm and deliberate consideration and especially do they most respectfully urge on every voter to attend the Polls

The putting into operation of a Government, which shall establish justice, ensure domestic tranquility, promote the general welfare and secure the blessings of civil, religious and po-

litical liberty, should be an object of the deepest solicitude to every true hearted citizen, and the consummation of his dearest wishes. "The price of liberty is eternal vigilance, and thus it is not only the privilege but the duty of every voter, to vote his sentiments. No freeman of this land who values his birth-right and would transmit unimpaired to his children, an inheritance so rich in glory and in honor, will refuse to give one day to the service of his country. Let every qualified voter go early to the polls, and give his free vote at the election appointed to be held on Tuesday the 13th of November next, not only that a full and fair expression of the public voice may be had for or against a Constitution intended to secure the peace, happiness and prosperity of the whole people, but that their numerical and political strength may be made manifest, and the world see, by what majority of freemen, California the bright star of the west, claims a place in the diadem of that glorious Republic, formed by the union of thirty one sovereign states

~~R. Semple~~
~~President Convention~~

Joseph Aram

C. T. Botts

Edwin Brown

José Ant.o Carrillo

José Mar.a Covarrubias

Elisha O. Crosby

Lewis Dent

Pablo de la Guerra

H. H. Dimmick

Atlan. Domínguez

A. Fallis

Stephen C. Foster

Edw. Gilbert

Wm. M. Gwin

Julian Hanks

Henry Hill

J. D. Hoppe

Joseph Hobson

H. W. Halleck

L. W. Hastings

M. Henry Hollingsworth

W. McKee Jones

Thomas O. Larkin

Francis M. Pratt

Jerome C. Ripley

Bertram F. Moore

Wm. McCarver

S. Mahony

Morgan Morton

P. Ord

Miguel de Pedrorena

Rodman M. Price

Antonio M.a Pico

Jacinto Rodriguez

Hugh Reid

L. Sansevain

Jacob R. Snyder

Winfield Scott Shenwood

Wm. E. Shannon

Pedro Sainsevain

Abel Stearns

Wm. Stewart

R. Semple

M. G. Vallejo

Thos. L. Vermule

Joel P. Walker

C. M. Wozencraft

". . . (we) do by these presents solemnly and mutually in the presence of God and one another, Covenant and Combine ourselves together into a Civil Body Politic, for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof to enact, constitute and frame just and equal Laws, Ordinances, Acts, Constitutions and Offices, from time to time, as shall be thought most meet and convenient for the general good of the Colony, unto which we promise all due submission and obedience.". . .

Mayflower Compact
November 11, 1620

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Woody Lehman

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James L. Gillis Room
California State Library

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M. Hastings

C. S. Bows.

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Gaylord
PAMPHLET BINDER
Syracuse, N. Y.
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